

MAINE STATE BOARD OF LICENSURE IN MEDICINE

IN RE: Licensure Disciplinary Action)
)
JC (Joseph) Guynemer Cyr, M.D.) **DECISION AND ORDER**

PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S.A. Sec. 3263, *et seq.*, 5 M.R.S.A. Sec. 9051, *et seq.* and 10 M.R.S.A. Sec. 8001, *et seq.*, the Board met in public session at the Board's offices located in Augusta, Maine on July 11, 2000 for the purpose of determining whether Dr. Cyr practiced fraud and deceit in obtaining his license to practice medicine by failing to disclose on his 1996 and 1998 renewal applications for his license the existence of two complaints filed with the College of Physicians and Surgeons of New Brunswick, Canada. Additionally, the Board gave notice that issues related to Dr. Cyr's competency to practice medicine would also be heard.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Edward David, M.D., J.D., Chairman, Bettsanne Holmes (public representative), Harold L. Jones (public representative), Kimberly K. Gooch, M.D., Sheridan R. Oldham, M.D., Sandra E. Tuttle (public representative) and Harry W. Bennert, Jr., M.D. Ruth McNiff, Ass't. Attorney General, presented the State's case. Dr. Cyr was present and represented by William Smith, Esq. James E. Smith, Esq. served as Presiding Officer.

The Board convened the hearing and first determined with the agreement of the parties that there were no conflicts of interest or bias on behalf of any Board member. The hearing then proceeded forward and the following documents were admitted into the Record. 1) State's Exhibits 1-6 (exhibit one was admitted over objection by Dr. Cyr) and Respondent's Exhibits 1 and 2. Following the opening statement by the Respondent, the taking of testimony, submission of exhibits and closing arguments, the Board began deliberations first regarding Respondent's Motion to Keep the Record Open pending further examinations regarding his mental status. That Motion was denied, and the Board then deliberated and made the following findings of fact by a preponderance of the credible evidence regarding the violations alleged in the Complaint.

FINDINGS OF FACT

Joseph Cyr, M.D., born October 2, 1922, is a native of Canada who was licensed to practice medicine both in that country from 1950-1997 and also in the United States from 1951 until the date of the instant hearing. Dr. Cyr specialized in the

practice of chelation therapy and geriatrics. In 1995, the College of Physicians and Surgeons of New Brunswick (College) received two complaints regarding Dr. Cyr's practice as a physician. As a result, he was ordered by the Fitness to Practice Committee to be assessed by his peers in Quebec. The results of that assessment, which consisted of an oral examination involving thirty-five cases, are as follows:

"To summarize, the candidate showed, throughout the whole process, severe lack of basic knowledge. Differential diagnosis is unexistent. A physical examination is irrelevant, follow-up is unstructured and prescription is not based on scientific studies. Dr. Cyr's failure to recognize his limits, and his lack of self-criticism, may conduct (sic) him to act dangerously for his patients."

As a result of this evaluation, Dr. Cyr would have been subject to a formal hearing regarding his fitness to practice. However, an agreement was reached with the College wherein Dr. Cyr agreed to retire in 1997 and the fitness hearing was, therefore, not pursued.

Dr. Cyr, however, held a license to practice medicine in the State of Maine and continued his practice in Van Buren, Maine. He has never held medical staff privileges at a Maine hospital. On October 28, 1996 and October 30, 1998, Dr. Cyr submitted applications to be actively licensed to practice in this State. On those applications, he answered the following two questions, among others, in the negative:

1. Have you been disciplined by a professional society or resigned while accusation was pending?
2. Do you practice medicine within the State of Maine without "active" medical staff privileges at a Maine hospital.

The Board, by a vote of 7-0, found that by answering the above two questions in the negative, Dr. Cyr violated the provisions of 32 M.R.S.A. Sec. 3282-A.2.A. which states the following as grounds for disciplinary action by the Board. "The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued."

Additionally, the Board deliberated regarding alleged violations concerning the provisions of 32 M.R.S.A. Secs. 3282-A.2.C and E (1) and (2). Those sections read as follows as grounds for disciplinary action:

C. A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients.

E. Incompetence in the practice for which the licensee is licensed. A licensee is considered incompetent in the practice if the licensee has:

- (1) Engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient to the general public; or
- (2) Engaged in conduct that evidences a lack of knowledge or inability to apply

principles or skills to carry out the practice for which the licensee is licensed.

Regarding Sec. C, the Board voted 7-0 that Dr. Morin's diagnosis of dementia may result in Dr. Cyr endangering his patients. Additionally, the Board observed some evidence of this diagnosis during the hearing. The Board also voted 7-0 that Dr. Cyr had demonstrated incompetency in his practice of medicine based on Dr. Morin's evaluation and the Canadian College's report and related testimony as well as the testimony of Dr. Cyr.

CONCLUSIONS OF LAW


The Board, by a vote of 7-0, voted to apply the following sanctions regarding Dr. Cyr's license.

Dr. Cyr's license to practice medicine in the State of Maine is suspended for 360 days and the matter referred to the Administrative Court for revocation of his license to practice.

However, following the Board's deliberations, Dr. Cyr agreed to immediately retire from the practice of medicine and turned in his medical license to the Board. He was given until July 21, 2000 to officially close his practice and refer his patients but in no event was he to practice medicine from July 11, 2000 forward. In light of this agreement and action, there exists no license to suspend or revoke so no further action is warranted.

SO ORDERED.

Dated: July 11, 2000


Edward David, M.D., J.D., Chairman
Maine Board of Licensure in Medicine

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. Sec. 10051.3, any party that decides to appeal this Decision and Order must file a Petition for Review within 30 days of the date of receipt of this Order with the Administrative Court, P.O. Box 7260, 205 Newbury Street, Portland, ME. 04112-7260.

The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Board of Licensure in Medicine, all parties to the agency proceedings, and the Attorney General.