

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS



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In The Matter Of

HARRY M. KATZ, M.D.

(Application for Medical Licensure)
Respondent.

DECISION

This matter comes before the Board on the application of Harry M. Katz, M.D., for a license to practice medicine in the State of Louisiana.

This application was denied by the Board on October 23, 1979, and Dr. Katz filed a petition for judicial review, as proceeding number 79-17523 of the docket of the Civil District Court in and for the Parish of Orleans. That proceeding is still pending.

Apparently, the Court, in that proceeding has ordered the matter remanded to the Board, with instructions to reconsider its decision of 1979, and to update the record so as to include Dr. Katz's record since that time, and make a current determination on the basis of the entire record.

The Board, therefore, has before it the record as it existed in 1979 when the original decision was made, and evidence of Dr. Katz's medical career since that time, consisting of his answers to interrogatories, with accompanying documents, and Dr. Katz testimony at the time of the October 31, 1991, hearing on the matter.

The record reveals that Dr. Katz graduated from the Medical College of Alabama in 1950, and was licensed in the State of Alabama 1951.

He obtained a temporary license in Virginia in 1951, which expired in June 1952, and was not subsequently renewed. He was licensed in Missouri in 1952, in Florida in 1953, and in Kentucky in 1954.

(Katz Dec., 1991)

Dr. Katz practiced in Florida from July, 1953 until February 14, 1966, when his license was revoked for the following reasons:

"the testimony we have heard shows that Doctor Katz had no concern or regard for the health, safety or welfare of any of these individuals. He made it possible for a man to pilot an airplane without so much as checking his heart or blood pressure. He openly assisted and permitted a manic depressive to perform major surgery (when he had been told not to) at a time when the physician was not even allowed to drive an automobile. There is no place in organized medicine or the medical fraternity for this doctor nor do we find any basis upon which to rehabilitate him into the practice of medicine."

He apparently continued his Florida practice until 1968, when his appeal was denied by the Florida Supreme Court. After two years out of practice, Dr. Katz began to practice in Bayou La Batre, Alabama, in November, 1970. He remained there until July, 1972, when he was incarcerated.

On April 23, 1971, Dr. Katz was convicted of submitting false claims for Medicare reimbursement, and, following an unsuccessful appeal, was incarcerated in a Federal institution.

Dr. Katz surrendered his Alabama license in August, 1972. He applied for reinstatement thereof in 1973, and again in 1978, but was denied both times, the latest denial being dated December 12, 1978.

In 1973, Dr. Katz applied for a Louisiana license, but his application was denied. He was, however, issued a Provisional Institutional Temporary Permit, in November, 1973, which allowed him to serve on the medical staff at Louisiana State Penitentiary in Angola, Louisiana. This permit was renewed annually for five years.

In 1977, there was an administrative complaint filed, charging professional and medical incompetency and unprofessional conduct. After an extensive hearing, the Board found the evidence insufficient to sustain the charges.

In early 1979, Dr. Katz applied for full licensure in Louisiana, but his application was denied on February 14, 1979. By letter of April 16, 1979, he was advised that, because his licensure had been revoked in Florida and Alabama, he could not be considered for full licensure in Louisiana.

After an abortive attempt to get a hearing before the Florida Board of Medical Examiners, Dr. Katz once again, on October 11, 1979, petitioned the Louisiana Board for full licensure.

On October 23, 1979, the Board responded as follows:

(Katz Dec., 1991)

"The Board has evaluated your request for consideration for full licensure. This Board cannot consider a doctor for unrestricted licensure when there is a disciplinary problem or suspension in another state existing. You must first clear up this matter in Florida before this Board will give you consideration for unrestricted licensure.

"This has been the practice of the Board, that I know of, for many years. I know of no instance whereby we granted full licensure to an individual whose license was under suspension in another state in the country.

"Subsection 1285 (30) of the Louisiana Medical Practice Act cites, 'The refusal of the licensing authority of another state to issue or renew a license, permit or certificate to practice medicine in that state or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state,' is a cause for nonissuance; suspension; revocation; or the imposition of restrictions on any license."

It is this ruling which was submitted for judicial review by Dr. Katz, and which is the subject of this hearing.

The Board remains of the opinion that its determination to deny full licensure to Dr. Katz in October 23, 1979, was correct, based on the record as it stood at that time, and for the reason expressed in the October 23, 1979, letter.

On December 7, 1979, Dr. Katz finally appeared before the Florida Board on his petition for reinstatement, but his request was denied. This finding was reversed by a Florida appellate court, on the ground that the Florida Board failed to set forth sufficient findings of fact or conclusion of law.

On February 7, 1982, a second hearing was held by the Florida Board, at which, after quoting from its February 14, 1966, ruling (*supra*), it found as follows:

"1. The Board has jurisdiction pursuant to Section 458.331(3), F.S., to entertain petitions for reinstatement. Section 458.331(3), F.S., provides as follows:

"The Board shall not reinstate the license of a physician, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of medicine. (e.s.)

"2. The Board is without jurisdiction to entertain Dr. Katz's Petition for Reinstatement inasmuch as the Board's Order revoking his license provided no basis for reinstatement which he could satisfy; in fact, Dr. Katz's license was revoked unconditionally.

"3. Dr. Katz is not capable of safely engaging in the practice of medicine.

"IT IS THEREFORE

"ORDERED AND ADJUDGED that the Petition for Reinstatement of the license to practice medicine in the State of Florida of Harry Meyer Katz, M.D., be and hereby is denied."

This order is dated June 1, 1982. There have been no further proceedings in Florida.

In 1981, Dr. Katz moved to the State of Missouri, where he has continued to practice. He has been certified by the American Board of Family Practice since 1976, and was recertified in 1982 and 1988.

On September 17, 1981, Dr. Katz filed an application for a license to practice medicine and surgery in South Dakota. The application was denied by the South Dakota State Board of Medical and Osteopathic Examiners on July 6, 1982. The basis for denial were the Florida revocation, his criminal conviction, and the fact that Dr. Katz no longer held a license in Alabama, which was the state in which he first became qualified to practice medicine.

He applied once again in South Dakota, in 1986, and was once again denied. He appealed this determination to the Courts, where it was upheld on both constitutional and substantive grounds.

It further appears from the record that Dr. Katz's Kentucky license was revoked, and that he was denied licensure in Kansas, but no details of these proceedings are available.

In his testimony, and in his answers to interrogatories, Dr. Katz maintains that he has been unfairly treated in Florida, Alabama, and Louisiana. In all administrative and court proceedings, he has refused to apologize for past misconduct, although he alleges that only his apology stands between him and reinstatement in both Florida and Alabama. He alleges that he has never done anything wrong, and apparently believes that his original license revocation in Florida was improper, and that his conviction for Medicare improprieties was wrong, despite the fact that both of these actions have been upheld by higher courts.

Dr. Katz has furnished to the Board a number of letters attesting to his good character, medical skill, and the exemplary manner in which he treats his patients. He presently holds an unrestricted license to practice medicine in the State of Missouri.

It has been the long standing policy of this Board and of the State of Louisiana not to issue an unrestricted license to practice medicine in Louisiana to one whose license has been revoked, suspended, or surrendered under the threat of administrative charges. R.S. 37:1285A(29) provides that the Board may refuse licensure on the following grounds:

The refusal of a licensing authority of another state to issue or renew a license,

(Katz Dec., 1991)

permit, or certificate to practice medicine or osteopathy in that state or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate.

The record is clear that Dr. Katz's original license in Alabama, where he underwent his testing, was surrendered by him under threat of administrative action, and that the State of Alabama has refused reinstatement.

It is equally clear that Dr. Katz's license in Florida, where he kept his original practice, was revoked, and reinstatement was twice refused.

Dr. Katz has never held an unrestricted license in Louisiana, but only a Provisional Institutional Temporary Permit, which has long since expired.

It is the opinion of the Board, and it is ordered, that the application of Dr. Harry M. Katz for unrestricted licensure in the State of Louisiana be denied.

Lafayette, Louisiana
December 12th, 1991

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OF MEDICAL EXAMINERS

By Elmo J. Laborde M.D.
Elmo J. Laborde, M.D.
President