

Relevant Statutory and Decisional Law

1. Case Law on License Discipline

“The purpose of such a [administrative disciplinary] proceeding is not to punish but to afford protection to the public upon the rationale that respect and confidence of the public is merited by eliminating from the ranks of practitioners those who are dishonest, immoral, disreputable, or incompetent.” (*Fahmy v. Medical Board of California* (1995) 45 Cal.Rptr.2d 486, citing *Borror v. Department of Investment* (1971) 15 Cal.App.3d 531, 540, 92 Cal.Rptr. 525; *Lam v. Bureau of Security & Investigative Services, supra*, 34 Cal.App.4th at p. 38, 40 Cal.Rptr.2d 137.)

2. Statutes Relating to the Medical Board

Section 2001.1 of the Business and Professions Code provides:

“Protection of the public shall be the highest priority for the Medical Board of California 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.”

Section 2229 of the Business and Professions Code provides:

(a) Protection of the public shall be the highest priority for the Division of Medical Quality, the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality Hearing Panel in exercising their disciplinary authority.

(b) In exercising his or her disciplinary authority an administrative law judge of the Medical Quality Hearing Panel, the division, or the California Board of Podiatric Medicine, shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence.

(c) It is the intent of the Legislature that the division, the California Board of Podiatric Medicine, and the enforcement program seek out those licensees who have demonstrated deficiencies in competency and then take those actions as are indicated, with priority given to those measures, including further education, restrictions from practice, or other means, that will remove those deficiencies. Where rehabilitation and protection are inconsistent, protection shall be paramount.