

In the matter of Damon Lizzi

Petition No. 820729-36-002

REQUEST FOR RECONSIDERATION

The joint request for reconsideration pursuant to § 19-2a-29 of Regulation of Conn. State Agencies is granted. There is no need for a hearing since the parties have stipulated to the facts which serve as the basis for the request.

MEMORANDUM OF DECISION
ON RECONSIDERATION

On February 9, 1987, a final decision was rendered In the Matter of Damon D. Lizzi which suspended Mr. Lizzi's Nursing Home Administrator license for a period of time concomitant with his individual suspension. However, the parties joint motion for reconsideration stipulates that the length of Mr. Lizzi's suspension from the Medicaid program is unknown.

The last paragraph of the February 9, 1987 decision is amended by deleting the last paragraph and the following is substituted in lieu thereof.

Therefore, I hereby suspend the license of Damon D. Lizzi up to and including December 31, 1993. However, this decision shall be automatically stayed if any appeal is taken. The period of suspension in that case will be calculated from the end of the litigation for a period of time equal to six years and nine months, as if no appeal had been initiated.

April 14, 1987
Date

Elinor P. Jacobson
Elinor P. Jacobson
Deputy Commissioner
Department of Health Services

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DIVISION OF MEDICAL QUALITY
ASSURANCE
DEPT. OF HEALTH SERVICES

In the Matter of Damon D. Lizzi

FINAL DECISION

A proposal for decision was rendered on July 8, 1986, by A. Searle Pinney acting as Hearing Officer on the Statement of Charges preferred against Damon D. Lizzi who had been issued License No. #471 by the Department of Health Services as a nursing home administrator. The Division of Medical Quality Assurance and the respondent were advised in accordance with Connecticut General Statute Section 4-179 that they had an opportunity to present oral argument and file briefs and exceptions before a final decision was rendered. The Division of Medical Quality Assurance requested oral argument which was conducted, after postponements requested by the respondent, on November 21, 1986.

The essence of the Division of Medical Quality Assurance's argument is that the recommended suspension of three years is insufficient. They seek revocation of the respondent's license. On the other hand the respondent asserted no defects in the proposed decision and argues the recommendation should be upheld.

FINDINGS OF FACTS

I hereby adopt all of the Findings of Facts proposed by the Hearing Officer in his decision.

DISCUSSION

There are persuasive arguments that the three-year proposed suspension is inadequate. There have been a number of decisions in other jurisdictions in which a license was revoked in similar circumstances. For example, Stevens v. Board of Regents of University of New York, 469 N.Y.S. 2d 202 (A.D. 3 Dept. 1983) and

Feldstein v. Board of Registration, Etc., 387 Mass. 339, Mass., 439 N.E. 2d 824. However, there are mitigating factors present in the instant case. Included in these considerations is the role the respondent played in the commission of the crimes in relation to the paramount role of his father, Albert Lizzi. Nonetheless, the fraudulent practices deprived Medicaid patients of public funds which could have contributed to an increase in the quality of care rendered.

A nursing home administrator has the professional responsibility to ensure the proper expenditure of public funds. A nursing home administrator's obligations and responsibilities extend beyond the stewardship of the facility to the public at large. The respondent failed to recognize and act on these responsibilities.

Therefore, I hereby suspend the license of Damon D. Lizzi for a period of time concomitant with his individual suspension from the Medicaid program. That suspension is to end on August 23, 1993. 1/ However, this decision shall be automatically stayed if any appeal is taken. The period of suspension in that case will be calculated from the end of the litigation for a period of time equal to six years and eight months, as if no appeal had been initiated.

February 9, 1987
Date

Elinor P. Jacobson
Elinor P. Jacobson
Deputy Commissioner
Department of Health Services

1/ At oral argument the parties brought to the attention of the decision maker the Medicaid suspension and its term. There is no dispute as to the dates.