



# Randall v. Massachusetts Board of Medicine (Mass. Bd. of Registration in Medicine)

Topics Covered: Due Process

## Outcome: Favorable

### Issue

The issue in this case was whether the Massachusetts Board of Registration in Medicine (the Board) had sufficient evidence to temporarily suspend the medical license of Sheldon Randall, MD, pending a full hearing on the licensure action being taken against him.

### AMA interest

The AMA believes due process, including reasonable notice, the opportunity to confront witnesses and rebut evidence, and the opportunity to present a defense, should be accorded to any physician whose professional conduct is reviewed.

### Case summary

Dr. Randall is a bariatric surgeon from Natick, Massachusetts, with a sub-specialty in gastric-bypass surgery.

In 2013, the Board received complaints that four of Dr. Randall's surgeries had resulted in severe complications, including two deaths. Without a hearing, on August 16, 2013, the Board determined, based on a substantial evidence standard, that Dr. Randall represented "an immediate and serious threat to the public health, safety, or welfare" and summarily suspended his medical license.

Dr. Randall sought a reconsideration of the summary suspension, and his case was referred to an administrative law judge (ALJ). Dr. Randall submitted supporting letters from prominent physicians to the ALJ, who attested to his competence and contradicted the Board's contrary finding. On June 10, 2014, the ALJ, based on a review of the written record, found that the summary suspension was "supported by substantial evidence" and recommended that the summary suspension remain in effect. On October 22, 2014, the Board accepted the ALJ recommendation and finalized the summary suspension.

Dr. Randall appealed the summary suspension to the Massachusetts Supreme Judicial Court (SJC), the highest court in Massachusetts. The case was then assigned to a single SJC justice for adjudication. On June 9, 2015, the SJC (acting through the single justice) found that the Board and the ALJ had used the wrong standard of proof in reaching their decisions. Rather than considering whether there was "substantial evidence" to support the summary suspension, principles of due process required the Board and the ALJ to consider whether "a preponderance of the evidence" supported the summary suspension.

The SJC ruled:

"While due process requirements may be lessened in the context of a temporary suspension, resulting in shorter time frames and the consideration of the available evidence in less than pristine or complete form, such a suspension must still be based on the preponderance of the evidence actually considered. ... Insofar as this 'temporary suspension' has been in effect for more than eighteen months without apparent resolution of the underlying allegations, it is appropriate to revisit the findings and conclusion of the [ALJ] and the Board ... based on the preponderance standard of evidence."

The SJC remanded the case to the Board for further consideration consistent with its decision.

On remand, the Board referred the case to the same ALJ who had previously considered it. This time, the ALJ found the "preponderance of the evidence" did not support the temporary suspension of Dr. Randall's medical license. Although Dr. Randall had committed some errors of judgment, these errors did not amount to an imminent and serious threat to public health. On July 1, 2016, the ALJ recommended restoration of Dr. Randall's license, pending a full evidentiary hearing.

The prosecuting attorneys objected to the ALJ recommendation. Despite these objections, on September 22, 2016, the Board unanimously ordered restoration of Dr. Randall's medical license, pending a full hearing on the merits.

After more months passed, the Board ultimately restored Dr. Randall's medical license. However, although the temporary license suspension has been lifted, the underlying case against Dr. Randall continues before the Board.

### **Litigation Center involvement**

The Litigation Center helped to defray Dr. Randall's expenses.