



STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER
ATTORNEY GENERAL

February 21, 2003

Mr. Ron Joseph, Executive Director
Medical Board of California
1426 Howe Avenue, Suite 100
Sacramento, CA 95825

Re: Medical Board of California v. Hason, U.S. Supreme Court, No. 02-479

Dear Mr. Joseph:

It is my understanding that the Medical Board of California (Board) will be meeting on February 28, 2003, to discuss the direction of this litigation before the United States Supreme Court. I would like to take this opportunity to assure the Board of my commitment to carry out its desires in the handling of this litigation. I am aware that my staff has been engaged in confidential attorney-client communications to help resolve the Board's questions about its options in this matter; I trust those communications have been helpful to the Board.

Apart from providing the Board with confidential advice and consultation on the handling of this litigation for the protection of the health and safety of California's consumers of medical services, I would also like to offer the Board my views, as California's Attorney General, about the effect of this Supreme Court litigation on the greater public interest in eliminating wrongful discrimination on the basis of disability. While this case involves a decision by the Medical Board with respect to denial of a license, it likely will be used by the Court as the vehicle to decide the broader question whether Title II of the Americans with Disabilities Act (ADA) unconstitutionally abrogates state sovereign immunity to suit in federal courts.

An adverse decision on this larger question will necessarily reduce the scope of remedies available to persons who seek to redress allegedly discriminatory actions by state government in a vast range of public programs and services that extends far beyond professional licensing. Strong arguments can be made by advocates for the disabilities community that, even if federal damage suits might be an inappropriate means to redress an allegedly discriminatory denial of a medical license, such a remedy should nevertheless be permitted in the context of state discrimination in other kinds of programs and services.

Mr. Ron Joseph, Executive Director

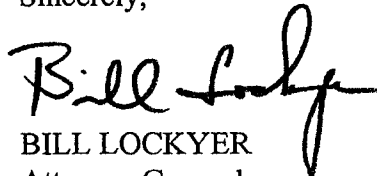
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I believe that it would be truly unfortunate to have the entirety of the ADA's remedial scheme against state discrimination decided in the context of this case's limited focus. It is understandable that California's community of persons with disabilities is extremely anxious over such a prospect. It is, thus, my belief as Attorney General that the greater public interest of the State of California would be furthered by a withdrawal of the petition for certiorari in this matter if that can be accomplished consistent with protection of public health and safety.

I hope that the Board will consider these views in its deliberations about how best to proceed with this litigation.

Sincerely,

A handwritten signature in black ink that reads "Bill Lockyer". The signature is written in a cursive style with a large, prominent "B" and "L".

BILL LOCKYER
Attorney General