

A doctor who was licensed to practice medicine in a particular state was convicted in state court of improperly distributing specified drugs by writing prescriptions for fictitious persons. Under state law, such an abuse of the prescription-writing privilege requires revocation of a doctor's license. After it received an official notification of the doctor's conviction, the state medical board revoked the doctor's license without affording him any opportunity for a hearing.

The doctor has sued the board in state court to set aside the revocation, alleging deprivation of property without due process of law because the board did not provide an opportunity for a trial-type hearing before revoking the license. The doctor does not deny the conviction or the factual basis for it.

Which of the following is the strongest argument in support of the state medical board?

- A. A doctor's license to practice is a privilege, not a right, and therefore is not property within the meaning of the due process clause of the Fourteenth Amendment.
- B. Due process requires a balancing of interests, and the state's interest in preventing drug abuse outweighs the doctor's interest in the particular procedure followed in the disciplinary proceeding.
- C. The adjudicative facts necessary to revoke the doctor's license were determined in the criminal trial, and therefore due process does not require any further trial-type hearing.
- D. The licensing board was required to summarily revoke the doctor's license because Article IV, Section 1, of the Constitution requires the licensing board to give full faith and credit to the doctor's criminal conviction.

Explanation:

Procedural due process requires that the government provide **reasonable notice** and a **meaningful opportunity to be heard** before a neutral decision-maker when depriving persons of **life, liberty, or property**. To determine whether the government provided due process, courts **balance three factors**:

- the **private interest** affected by the deprivation
- the **risk of erroneous deprivation** of that interest through current procedures and the probable **value of additional** or **substitute procedural safeguards** *and*
- the **government's interest**, including the fiscal and administrative burdens that other safeguards would entail.

Here, the doctor's property interest in his medical license is likely outweighed by the state's interest in preventing drug abuse—particularly since additional or substitute proceedings would fiscally and administratively burden the medical board. And the risk of erroneously depriving the doctor of his license is low given the protections afforded in his related criminal proceeding. Therefore, the board's strongest argument is that the facts necessary to revoke the doctor's license were determined in the criminal trial, so no further trial-type hearing is required.

(Choice A) Due process protections historically extended to rights—not privileges. But this distinction has been abandoned, and such protections extend to any legitimate life, liberty, or property interest.

(Choice B) Due process does require a balancing of interests. But it weighs the state's interest in preventing drug abuse against the doctor's interest in his license (not the board's particular procedures) *and* the risks of current procedures and value of alternative safeguards.

(Choice D) Under the full faith and credit clause, a valid judgment issued in one state must be recognized in every other state. This clause does not apply here since the doctor's conviction and license revocation occurred in the same state. But even if it did, the state need only honor the criminal conviction—not revoke the doctor's license.

Educational objective:

Procedural due process is assessed by weighing three factors: (1) the private interest affected, (2) the risk of erroneous deprivation of that interest and probable value of other procedural safeguards, and (3) the government's interest, including the fiscal and administrative burdens that other safeguards would entail.

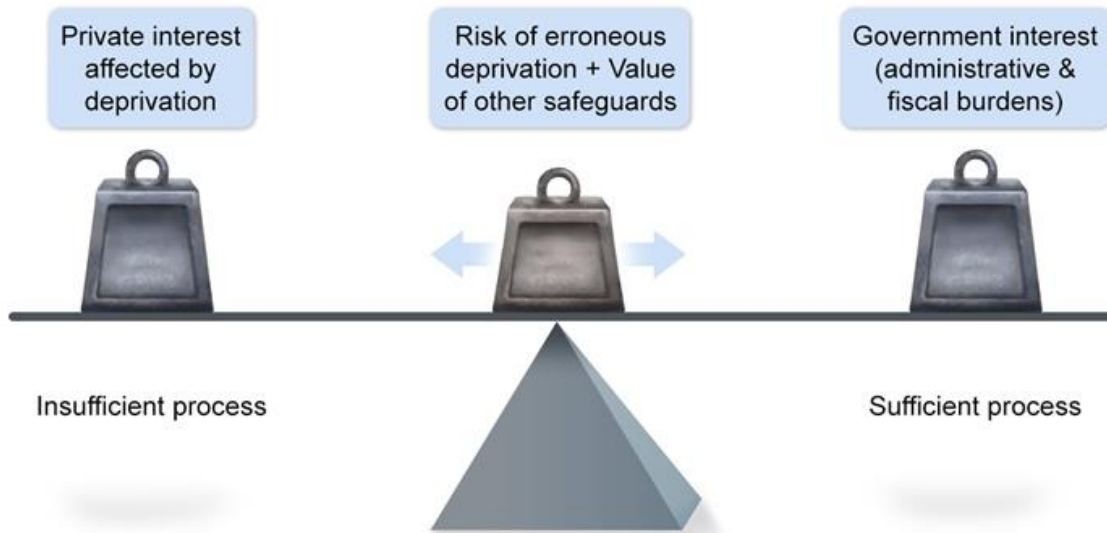
References

- Mathews v. Eldridge, 424 U.S. 319, 335 (1976) (listing the three factors used to assess compliance with procedural due process).

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Procedural due process
(*Mathews v. Eldridge* balancing test)



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