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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against, **CHRISTOPHER DEAN OWENS, M.D.** UCSF Vascular Surgery Dept. 400 Parnassus Avenue, Suite A-581 San Francisco, CA 94143 Physician's and Surgeon's Certificate No. A108740 Respondent.	Case No. 800-2015-016016 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 16, 2017, Complainant Kimberly Kirchmeyer, in her official capacity as the Executive Director of the Medical Board of California, filed Accusation No. 800-2015-016016 against Christopher Dean Owens, M.D. (Respondent) before the Board.

2. On or about July 1, 2009, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. A108740 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2017, unless renewed. On April 26, 2017, said certificate was suspended by order of the Board and the suspension will continue until a final decision is issued.

3. On August 14, 2015, the Board received a consumer complaint that Respondent might be using illicit substances. On December 29, 2016, the Board ordered Respondent to

undergo a psychiatric evaluation to determine whether his ability to practice medicine was impaired by substance abuse.

4. On January 20, 2017, Respondent was evaluated by a psychiatrist. The psychiatrist performed testing, interviewed Respondent and reviewed extensive investigation materials. The expert opined that Respondent suffers from a Substance Abuse Disorder and his continued practice of medicine endangers patients. (Declaration of Salma Khan, M.D., Exhibit Package, Exhibit A[1])

5. On April 25, 2017, a hearing was held before an Administrative Law Judge who concluded that Respondent is unsafe to practice medicine and issued an Interim Suspension Order. (Decision, Exhibit B) The Order required the Board to file an Accusation within 30 days of the effective date of the Order, which was April 26, 2017.

6. On May 16, 2017, an Accusation was served from the Department of Justice. Michelle C. Dubonnet, an employee of the Department of Justice, served by Certified Mail a copy of the Accusation No. 800-2015-016016, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is UCSF Vascular Surgery Dept., 400 Parnassus Avenue, Suite A-581, San Francisco, CA 94143. The Statement to Respondent advised Respondent that he was required to complete, sign and return a Notice of Defense if he desired a hearing on the charges. A copy of the Accusation, the related documents, and Declaration of Service are included in the Exhibit Packet as Exhibit C.

7. Based upon statements made by Respondent at an interview with the Board's investigator, the Board had reason to believe that, although Respondent had not changed his address of record with the Board, that Respondent might receive mail at 50 Illinois Street, Apt. 311, Indianapolis, Indiana 47031. Copies of the above-described documents were also served by Certified Mail to that address.

[1] The evidence in support of this Default Decision and Order is submitted herewith as "Exhibit Package."

8. At all relevant times, Respondent was represented by attorney Lewis Romero, whose address is 885 Bryant Street, Floor 2, San Francisco, CA 94103. Copies of the above-described documents were served on Respondent's attorney on the same date as service on Respondent.

9. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

10. On or about May 24, 2017, the aforementioned documents were returned from Respondent's address of record by the U.S. Postal Service (USPS) marked "No longer here -- RTS." A copy of the envelope returned by the post office is included as Exhibit D, and is incorporated herein by reference. On June 9, 2017, a search of USPS for the copies sent to the Indianapolis address revealed that, despite receiving a notice of attempted delivery, the documents were unclaimed by Respondent. A tracking report for the Certified Mail delivery is included as Exhibit E.

11. On May 31, 2017, a green delivery receipt card showing actual service on Respondent's attorney was received and a copy is included as Exhibit F.

12. On May 31, 2017, a Courtesy Notice of Default was served by Certified Mail to Respondent's address of record, his Indiana address and the address of his attorney of record. The Notice of Default provided Respondent with a copy of the Accusation and Notice of Defense, advised him that he was in default and cautioned him that a decision would be rendered by the Board without a hearing if he did not take action. Respondent did not file a Notice of Defense or otherwise respond. A copy of the Notice and the green delivery receipt card showing actual delivery to his attorney of record are included as Exhibit G.

STATUTORY AUTHORITY

13. Section 820 of the Code provides as follows:

"Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency.

The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822."

14. Section 822 of the Code provides that if the Board determines that a licensee's ability to practice his profession safely is impaired because the licensee is mentally ill, or physically ill affecting competency, the licensing agency may take action by revoking or suspending the license, placing the licensee on probation, or taking such other action as the licensing agency in its discretion deems proper.

15. Section 2239 of the Code states:

A(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

16. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

17. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 800-2015-016016.

18. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

19. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A-G finds that the allegations in Accusation No. 800-2015-016016 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Christopher Dean Owens, M.D. has subjected his Physician's and Surgeon's Certificate No. A108740 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the following violations alleged in the Accusation:

"Respondent Christopher Dean Owens, M.D. is subject to disciplinary action under sections 2234, 2239 and 822 of the Code, in that he self-administered illicit drugs and has been diagnosed with a substance abuse disorder."

ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A108740, heretofore issued to Respondent Christopher Dean Owens, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 21, 2017 at 5:00 p.m.

It is so ORDERED on June 22, 2017.

FOR THE MEDICAL BOARD OF CALIFORNIA
Kimberly Kirchmeyer, Executive Director

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Christopher Dean Owens, M.D.** UCSF Vascular Surgery Dept. 400 Parnassus Avenue, Suite A-581 San Francisco, CA 94143 Physician's and Surgeon's Certificate No. A108740, Respondent.	Case No. 800-2015-016016 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California.

2. On or about July 1, 2009, the Medical Board issued Physician's and Surgeon's Certificate Number A108740 to Christopher Dean Owens, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2017, unless renewed. On April 26, 2017, an Interim Suspension Order prohibiting Respondent from engaging in the practice of medicine was issued by an Administrative Law Judge. Said Order shall remain in effect until a final Decision on the charges in this Accusation has issued.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

6. Section 2238 of the Code states:

"A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct."

7. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

"(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Medical Board may order discipline of the licensee in accordance with Section 2227 or the Medical Board may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."

8. Section 2241 of the Code states, in pertinent part:

"... (b) ... Nothing in this subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a person he or she knows or reasonably believes is using or will use the drugs or substances for a nonmedical purpose."

9. Section 820 of the Code states:

"Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822."

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10. Section 822 of the Code states:

"If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

"(a) Revoking the licentiate's certificate or license.

"(b) Suspending the licentiate's right to practice.

"(c) Placing the licentiate on probation.

"(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

"The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

FIRST CAUSE FOR DISCIPLINARY ACTION

(Mental/Physical Impairment; Substance Abuse)

11. Respondent Christopher Dean Owens, M.D. is subject to disciplinary action under sections 2234, 2239 and 822 of the Code, in that he self-administered illicit drugs and has been diagnosed with a substance abuse disorder. The circumstances are as follows:

12. On August 14, 2015, the Central Complaint Unit of the Medical Board of California received a consumer complaint that Respondent was prescribing controlled substances to his girlfriend, D.P.[1], who was not his patient and was not receiving medical care from him. The complaint also stated that Respondent's girlfriend had reported that Respondent was abusing illicit, non-prescription drugs.

[1] Names are abbreviated to protect privacy interests.

12. Investigators for the Board proceeded to investigate the allegations of inappropriate prescribing. The Board's investigators obtained CURES[2] reports and prescription profiles, which showed that Respondent did in fact prescribe oxycodone, a potent opioid medication, to D.P. between January 27, 2011 and June 11, 2015. Respondent was also prescribing opioids, benzodiazepines and amphetamines to other individuals. The prescriptions, which total 81, were written while Respondent's field of practice was Vascular Surgery and his DEA Certificate was restricted to "official university duties" attendant to his academic appointment at UCSF Medical Center ("UCSF"). The custodian of records for UCSF certified that no medical records for any of these individuals existed, thereby giving rise to a concern that the prescriptions were not supported by a bona fide medical condition.

13. On June 2, 2016, the Board received information that D.P. had died. The Board's investigators obtained the reports of the San Francisco Police Department ("SFPD"), the Medical Examiner and the UCSF Police Department, which revealed that D.P. died at her home on June 1, 2016, due to an overdose of gamma-Hydroxybutyric acid[3] and methamphetamine. The SFPD report stated that Respondent was present in the home at the time, but he told the investigating officers he had fallen asleep after they ingested GHB together and did not find D.P. deceased in the shower until hours after her overdose.

14. On June 3, 2016, UCSF summarily suspended Respondent's staff privileges and conducted an investigation of Respondent's prescribing. UCSF notified the Board of its adverse

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[2] The Controlled substance Utilization Review and Evaluation System (CURES) stores Schedule II, III, and IV controlled substance prescription information reported as dispensed in California. CURES contains the following information: patient name, patient date of birth, patient address, prescriber name, prescriber DEA number, pharmacy name, pharmacy license number, date prescription was dispensed, prescription number, drug name, drug quantity and strength, and number of refills remaining.

[3] Gamma-Hydroxybutyric acid, also referred to by street names GHB, Liquid Ecstacy and Liquid X, is a central nervous system depressant and drug of abuse referred to as a "club drug" or "date rape drug."

action against Respondent and the Board's investigators issued an 805.1 subpoena[4] for the internal disciplinary documents. Those documents included many emails between Respondent and the Director of Medical Staff Affairs, as well as an interview with the Medical Staff Committee, in which Respondent vehemently denied writing any illegal prescriptions and also denied using any prescribed or non-prescribed narcotics other than "a little pot."

15. Respondent was arrested by UCSF Police Department detectives on November 3, 2016 on charges of fraudulent prescribing. In an interview that was conducted after Respondent had been read his *Miranda* rights, Respondent contradicted his statements to the UCSF Medical Staff and admitted to prescribing opioids for D.P. and others. He stated that D.P. was addicted to methamphetamine. When asked about his own methamphetamine use, Respondent stated that he had smoked methamphetamine, but insisted he had done so no more than a dozen times.

16. On December 22, 2016, pursuant to Business and Professions Code section 820, the Board issued an Order compelling Respondent to undergo a psychiatric evaluation to determine whether he was able to safely and effectively perform the duties of a physician and surgeon.

17. On January 20, 2017, Respondent was evaluated a psychiatrist retained by the Board for that purpose. On February 2, 2017, the psychiatrist provided her report, which contains her findings, opinions and conclusions regarding Respondent's fitness to practice medicine. Respondent admitted a substance abuse history dating from adolescence. He also admitted that his writing prescriptions to his girlfriend and to other friends and colleagues was based on

[4] Business and Professions Code §805 provides that a peer review body must notify the Medical Board of any adverse action against a physician's staff privileges. Section 805.1 provides that the Board may inspect the records of any disciplinary proceeding before a peer review body.

"dubious moral grounds." The evaluator diagnosed Respondent with Alcohol Use Disorder, Likely Methamphetamine Use Disorder and likely Gamma-Hydroxybutyric Acid Use Disorder.

18. On March 30, 2017, Respondent was interviewed by the Board's investigator and medical consultant. Respondent stated that he believed D.P. to be addicted to opiates, both legal and illegal. At that time, Respondent admitted personally using illicit substances, including GHB and methamphetamine. Respondent stated that he was working at recovery from a substance abuse disorder and that his drug of choice had been methamphetamine.

SECOND CAUSE FOR DISCIPLINARY ACTION

(Violation of Drug Laws)

19. Respondent Christopher Dean Owens, M.D. is subject to disciplinary action under sections 2234, 2238 and 2241 in that he prescribed controlled substances to non-patients without a valid medical indication and who he knew or reasonably believed would use the drugs for a nonmedical purpose. The circumstances are as follows:

20. Complainant incorporates Paragraphs 11, 12, 14, 15 and 18 of the First Cause for Disciplinary Action herein as though fully set forth.

21. None of the persons to whom he prescribed were patients at the UCSF Medical Center, albeit his DEA certificate was restricted to his duties at that institution. Respondent had no records of examination, diagnosis or treatment for any of the persons to whom he prescribed controlled substances. Respondent admitted that he knew or reasonably believed D.P. to be an addict during the time that he prescribed controlled substances to her.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A108740, issued to Christopher Dean Owens, M.D.;

2. Revoking, suspending or denying approval of Christopher Dean Owens, M.D.'s authority pursuant to section 3527 of the Code to supervise physician assistants and advanced practice nurses;

3. Ordering Christopher Dean Owens, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: May 16, 2017

for

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

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