

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

In the Matter of the Accusation Against:)

CHRISTINE DANIEL, M.D.

Physician's & Surgeon's
Certificate No. G42176

Respondent.

Case No. 17-2009-202494

OAHNo. 2016010686

**ORDER CORRECTING NUNC PRO TUNC
ORDER DATE OF DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error reflecting the order date of the Decision in the above-entitled matter, and that such clerical error should be corrected.

IT IS HEREBY ORDERED that the order date contained in the Decision in the above-entitled matter be and is hereby amended and corrected nunc pro tunc to reflect that the correct order date is as follows:

"January 11, 2018."

IT IS SO ORDERED January 25, 2018.



Ronald H. Lewis, M.D., Chair
Panel A
Medical Board of California

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

**In the Matter of the Accusation)
Against:)**

CHRISTINE DANIEL, M.D.)

Case No. 17-2009-202494

**Physician's and Surgeon's)
Certificate No. G42176)**

OA# No. 2016010686

Respondent)

DECISION

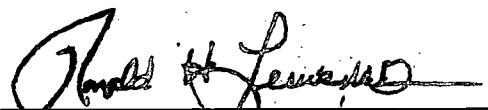
The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 9, 2018.

IT IS SO ORDERED January 11, 2017.

MEDICAL BOARD OF CALIFORNIA

By:



**Ronald H. Lewis, M.D., Chair
Panel A**

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

In the Matter of the Accusation Against:

CHRISTINE DANIEL, M.D.,

Physician's and Surgeon's Certificate
No. G 42176,

Respondent.

Case No. 17-2009-202494

OAH No. 2016010686

PROPOSED DECISION

Matthew Goldsby, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on November 20, 2017, at Los Angeles, California.

Rebecca L. Smith, Deputy Attorney General, appeared and represented complainant Linda K. Whitney, Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

No appearance was made by or on behalf of respondent Christine Daniel, M.D.

Complainant requested that respondent's default be entered and that complainant be permitted to prove up the allegations set forth in the Accusation. This matter proceeded as a default under Government Code section 11520.

Complainant presented documentary evidence, the record was closed, and the matter was submitted for decision on November 20, 2017.

FACTUAL FINDINGS

1. Complainant brought the Accusation in her official capacity. Respondent timely submitted a Notice of Defense and requested a hearing.

2. Complainant served a Notice of Hearing on respondent on January 27, 2016. The notice informed respondent that a hearing would take place on September 1, 2016, at the designated address. The notice informed respondent that she may be present at the hearing and summarized her rights.

3. The hearing was continued four times based on respondent's incarceration in federal prison and her pending appeals. After each continuance was granted, complainant served respondent with a Notice of New Hearing on August 15, 2016, February 9, 2017, July 5, 2017, and September 1, 2017. The most recent Notice of New Hearing was served by United States mail and addressed to respondent at the address she furnished in her most recent motion for continuance. (Ex. A.)

4. On July 1, 1980, the Board issued to respondent Physician's and Surgeon's certificate number G 42176. The certificate expired on September 30, 2013, and is in a delinquent status. (Ex. 2.) Pursuant to Business and Professions Code section 118, subdivision (b), the expiration of the license does not deprive the Board of its authority to continue this disciplinary proceeding against respondent.

5. On September 26, 2011, in the United States District Court for the Central District of California (case number CR09-00993-RT), a jury found respondent guilty of 11 felony counts as follows: two counts of wire fraud in violation of 18 U.S.C. section 1341; two counts of mail fraud in violation of 18 U.S.C. section 1343; six counts of tax evasion in violation of 26 U.S.C. section 7201; and one count of witness tampering in violation of 18 U.S.C. section 1512(b). The court ordered respondent to pay an assessment to the court in the sum of \$1,100, and entered a forfeiture money judgment of \$1,243,359.79. The court sentenced respondent to 168 months in federal prison.

6. In a previous administrative hearing concerning the same allegations against respondent (OAH case number 2011120436), complainant and respondent presented evidence of the facts and circumstances of the convictions. An administrative law judge found that respondent's convictions "involved fraud and dishonesty, and were integrally connected to her patient care," and concluded that respondent's convictions "involve crimes substantially related to the qualifications, functions, and duties of a physician and surgeon." (Ex. 9.) Specifically, Factual Finding 4 of the Decision states:

The facts underlying respondent's convictions are that respondent concocted and promoted herbal products which she claimed could cure or treat many human diseases, such as cancer, multiple sclerosis, stroke, Alzheimer's disease, Parkinson's disease, diabetes and hepatitis. She falsely claimed that the products were made of herbs from around the world, and had between at least a 60 to 80 percent cure rate for terminal cancers. In fact, the product contained a sunscreen preservative, and beef-flavored extract, among other things. Respondent was an evangelical Christian minister who appeared on the Trinity Broadcasting Network to promote her products. Respondent sold her herbal concoction to sick patients around the country, and some traveled to California to be treated by respondent. She charged her customers up to \$4,270 for a single bottle of the herbal product. In total, respondent induced approximately 55 victims to send in

excess of \$1.1 million to her medical clinic. Respondent failed to report nearly \$1.3 million on her corporate income tax returns, which resulted in her owing the federal government approximately \$438,809. She also failed to report approximately \$315,109 on her personal income tax returns, which totaled about \$73,895 that she owed to the federal government. Respondent also attempted to influence the testimony of a witness before the grand jury.

(Ex. 9.)

7. The Board adopted the findings and conclusions of the administrative law judge, and suspended respondent's certificate pursuant to Business and Professions Code section 2236.1, subdivision (b), effective February 10, 2012.

8. Respondent filed an appeal of the convictions with the United States Court of Appeals for the Ninth Circuit. On January 24, 2017, the appellate court affirmed the conviction. On April 24, 2017, respondent filed a petition for writ of certiorari and motion for leave to proceed in forma pauperis with the United States Supreme Court. On October 2, 2017, the Supreme Court denied the petition. The conviction is final.

9. No evidence of mitigation or rehabilitation was offered.

LEGAL CONCLUSIONS

1. The standard of proof in an administrative action seeking to suspend or revoke a professional license is clear and convincing proof to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence requires a finding of high probability. The evidence must be so clear as to leave no substantial doubt. It must be sufficiently strong to command the unhesitating assent of every reasonable mind. (*Christian Research Institute v. Alnor* (2007) 148 Cal.App.4th 71, 84.)

2. A licensee who has been 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 cost of probation monitoring, or such other action taken in relation to discipline as the Board or administrative law judge deems proper. (Bus. & Prof. Code, § 2227.)

3. The Board is required to take action against any licensee who is charged with unprofessional conduct. (Bus. & Prof. Code, § 2234.)

4. The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct. (Bus. & Prof. Code, § 2236, subd. (a).)

5. The Board may revoke a physician's and surgeon's certificate on the ground that the licensee was convicted of a crime substantially related to the qualifications, functions, or duties of a physician or surgeon. (Bus. & Prof. Code, § 490, subd. (a).)

6. In this case, respondent was convicted of 11 felony counts, including wire fraud, mail fraud, tax evasion, and witness tampering, and the convictions were affirmed on appeal. The conviction is final, and involved crimes previously determined to be substantially related to respondent's physician's and surgeon's certificate. Accordingly, complainant has established by clear and convincing evidence that respondent has engaged in unprofessional conduct and that cause exists to discipline her certificate under Business and Professions Code sections 490 and 2236.

7. In reaching a decision on the appropriate level of discipline, the Board must consider the guidelines entitled *Manual of Model Disciplinary Orders and Disciplinary Guidelines*, 12th Edition, 2016. (Cal. Code Regs., tit. 16, § 1361, subd. (a).) For a felony conviction of a crime substantially related to the qualifications, functions, or duties of a physician or surgeon, the guidelines recommend a maximum penalty of revocation and a minimum penalty of stayed revocation, one year suspension, and at least seven years of probation. Deviating from the guidelines is appropriate only where the facts of the particular case warrant such a deviation. (Cal. Code Regs., tit. 16, § 1361, subd. (a).)

8. The nature of respondent's conviction of multiple felony counts involved fraud and dishonesty in the administration of patient care, with severe financial injury to the general public. The conviction became final only two months before the hearing on this matter, after respondent exhausted her appeal rights. Respondent remains incarcerated in federal prison and presented no evidence of mitigation or rehabilitation.

9. Due process does not confer on a party an absolute right to be personally present at an adjudicative hearing. (*Yarbaugh v. Superior Court* (1985) 39 Cal.3d 197.) Such is the case for a licensee who is unable to appear at an administrative hearing due to incarceration. (*Arnett v. Office of Admin. Hearings* (1996) 49 Cal.App.4th 332.) A licensee has the right to cross-examine and to confront witnesses, and an agency is required to give a licensee notice and an opportunity to be heard, including the opportunity to present and rebut evidence. (Gov. Code, §§ 11500, subd. (f)(2), 11425.10, subd. (a)(1).) In this case, complainant gave respondent notice as required by law, and multiple continuances were granted to allow respondent the opportunity to be heard. No appearance was made on respondent's behalf by an attorney to assert her right to cross-examine and confront witnesses, or to present and rebut evidence.

10. Protection of the public is the highest priority for the Board in exercising its disciplinary authority, and is paramount over other interests in conflict with that objective. (Bus. & Prof. Code, §§ 2001.1, 2229, subd. (a).) Considering all relevant evidence presented by complainant, and the absence of any evidence of mitigation and rehabilitation presented by or on behalf of respondent, the protection of the public is best served by the revocation of respondent's certificate.

ORDER

Physician's and Surgeon's Certificate number G 42176 issued to respondent Christine Daniel is revoked.

DATED: December 12, 2017

DocuSigned by:

Matthew Goldsby

MATTHEW GOLDSBY
Administrative Law Judge
Office of Administrative Hearings

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

In the Matter of the Accusation Against:

Case No. 17-2009-202494

CHRISTINE DANIEL, M.D.
Post Office Box 950778
Mission Hills, California 91395
Physician's and Surgeon's Certificate No. G
42176

ACCUSATION

Respondent.

Complainant alleges:

PARTIES

1. Linda K. Whitney (complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about July 1, 1980, the Board issued Physician's and Surgeon's Certificate Number G 42176 to Christine Daniel, M.D. (respondent). The Physician's and Surgeon's Certificate will expire on September 30, 2013, unless renewed, but was suspended on February 10, 2012 pursuant to Business and Professions Code section 2236.1, subdivision (b).

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.

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

5 5. Section 2236 of the Code states in part:

6 “(a) The conviction of any offense substantially related to the qualifications, functions, or
7 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
8 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
9 evidence only of the fact that the conviction occurred.

10 “...”

11 6. Section 2236.1 of the Code states:

12 “...”

13 “(d) (1) Discipline may be ordered in accordance with Section 2227, or the Division of
14 Licensing¹ may order the denial of the license when the time for appeal has elapsed, the judgment
15 of conviction has been affirmed on appeal, or an order granting probation is made suspending the
16 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code
17 allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting
18 aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

19 “(2) The issue of penalty shall be heard by an administrative law judge from the Medical
20 Quality Panel sitting alone or with a panel of the division, in the discretion of the division. The
21 hearing shall not be had until the judgment of conviction has become final or, irrespective of a
22 subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been
23 made suspending the imposition of sentence; except that a licensee may, at his or her option, elect
24 to have the issue of penalty decided before those time periods have elapsed. Where the licensee

25
26 ¹ California Business and Professions Code section 2002, as amended and effective
27 January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in
28 the State Medical Practice Act (Cal. Bus. & Prof. Code, §§ 2000, et seq.) means the "Medical
Board of California," and references to the "Division of Medical Quality" and "Division of
Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

1 so elects, the issue of penalty shall be heard in the manner described in this section at the hearing
2 to determine whether the conviction was substantially related to the qualifications, functions, or
3 duties of a physician and surgeon. If the conviction of a licensee who has made this election is
4 overturned on appeal, any discipline ordered pursuant to this section shall automatically cease.
5 Nothing in this subdivision shall prohibit the division from pursuing disciplinary action based on
6 any cause other than the overturned conviction.

7 "(e) The record of the proceedings resulting in the conviction, including a transcript of the
8 testimony therein, may be received in evidence.

9 "..."

10 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
11 revoke a license on the ground that the licensee has been convicted of a crime substantially
12 related to the qualifications, functions, or duties of the business or profession for which the
13 license was issued.

14 CAUSE FOR DISCIPLINE

15 (Conviction of Substantially-Related Crime)

16 8. Respondent is subject to disciplinary action under sections 490 and 2236 in that she
17 was convicted of crimes substantially related to the qualifications, functions or duties of a
18 physician and surgeon. The circumstances are as follows:

19 9. On or about September 26, 2011, in the action in the United States District Court for
20 the Central District of California titled *United States of America v. Christine Daniel*, case number
21 CR 09-993, respondent was convicted of violating the following laws, as alleged in the Amended
22 First Superseding Indictment: 18 U.S.C. section 1341 (wire fraud, counts One and Two); 18
23 U.S.C. section 1343 (mail fraud, counts Three and Four); 26 U.S.C. section 7201 (tax evasion,
24 Counts Five through Ten) and 18 U.S.C. section 1512(b) (witness tampering, Count Eleven).

25 PRAYER

26 WHEREFORE, complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Medical Board of California issue a decision:

28 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 42176,

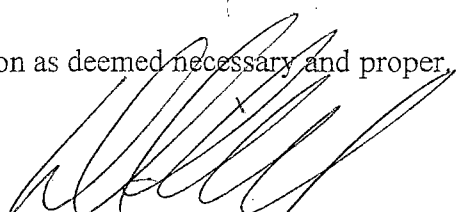
1 issued to Christine Daniel, M.D.

2 2. Revoking, suspending or denying approval of her authority to supervise physician
3 assistants, pursuant to section 3527 of the Code;

4 3. Ordering her to pay the Medical Board of California the costs of probation
5 monitoring, if she is placed on probation;

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

7
8 DATED: July 27, 2012


LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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