

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

In the Matter of the Accusation Against:

Case No. 800-2020-065801

**HARVEY LYONS, M.D.
5881 La Cumbre Road
Somis, CA 93066-9719**

**Physician's and Surgeon's Certificate
No. C 38214,**

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on August 18, 2023.

It is so ORDERED August 11, 2023.

MEDICAL BOARD OF CALIFORNIA

JENNA JONES FOR

Reji Varghese
Executive Director

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 CHRISTINE FRIAR WALTON
Deputy Attorney General
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7

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
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Case No. 800-2020-065801

12 **HARVEY LYONS, M.D.**
13 **5881 La Cumbre Road**
Somis, CA 93066-9719

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Physician's and Surgeon's Certificate**
15 **No. C 38214,**

Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of
21 California (Board). He brought this action solely in his official capacity and is represented in
22 this matter by Rob Bonta, Attorney General of the State of California, by Christine Friar Walton,
23 Deputy Attorney General.

24 2. Respondent Harvey Lyons, M.D. (Respondent) is represented in this proceeding by
25 attorney Peter R. Osinoff, of Bonne Bridges Mueller O'Keefe & Nichols, located at 355 South
26 Grand Avenue, Suite 1750, Los Angeles, CA 90071-1562.

27 3. On or about August 14, 1978, the Board issued Physician's and Surgeon's Certificate
28 No. C 38214 to Respondent. That Physician's and Surgeon's Certificate expired on October 31,

1 2021, and has not been renewed. Respondent retired from the practice of medicine in August
2 2021.

3 **JURISDICTION**

4 4. Accusation No. 800-2020-065801 was filed before the Board on March 16, 2023, and
5 is currently pending against Respondent. The Accusation and all other statutorily required
6 documents were properly served on Respondent. Respondent timely filed his Notice of Defense
7 contesting the Accusation. A copy of Accusation No. 800-2020-065801 is attached as Exhibit A
8 and incorporated by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. 800-2020-065801. Respondent also has carefully read,
12 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
13 and Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
16 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
17 to the issuance of subpoenas to compel the attendance of witnesses and the production of
18 documents; the right to reconsideration and court review of an adverse decision; and all other
19 rights accorded by the California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 **CULPABILITY**

23 8. Respondent understands that the charges and allegations in Accusation No. 800-2020-
24 065801, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
25 Surgeon's Certificate.

26 9. For the purpose of resolving the Accusation without the expense and uncertainty of
27 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
28 basis for the charges in the Accusation and that those charges constitute cause for discipline.

1 Respondent hereby gives up his right to contest that cause for discipline exists based on those
2 charges.

3 10. Respondent understands that by signing this stipulation he enables the Board to issue
4 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
5 process.

6 CONTINGENCY

7 11. This stipulation shall be subject to approval by the Board. Respondent understands
8 and agrees that counsel for Complainant and the staff of the Board may communicate directly
9 with the Board regarding this stipulation and surrender, without notice to or participation by
10 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
11 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
12 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
13 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
14 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
15 be disqualified from further action by having considered this matter.

16 12. This Stipulated Surrender of License and Order is intended by the parties herein to be
17 an integrated writing representing the complete, final and exclusive embodiment of the agreement
18 of the parties in this above entitled matter.

19 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
20 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
21 thereto, shall have the same force and effect as the originals.

22 14. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the Board may, without further notice or formal proceeding, issue and enter the following Order:

24 ORDER

25 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 38214, issued
26 to Respondent Harvey Lyons, M.D., is surrendered and accepted by the Board.

27 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
28 acceptance of the surrendered license by the Board shall constitute the imposition of discipline

1 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
2 of Respondent's license history with the Board.

3 2. Respondent shall lose all rights and privileges as a physician and surgeon in
4 California as of the effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
6 issued, his wall certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in
8 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
9 comply with all the laws, regulations and procedures for reinstatement of a revoked or
10 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
11 contained in Accusation No. 800-2020-065801 shall be deemed to be true, correct and admitted
12 by Respondent when the Board determines whether to grant or deny the petition.

13 5. Respondent shall pay the agency its costs of investigation and enforcement in the
14 amount of \$35,302.50 prior to issuance of a new or reinstated license.

15 6. If Respondent should ever apply or reapply for a new license or certification, or
16 petition for reinstatement of a license, by any other health care licensing agency in the State of
17 California, all of the charges and allegations contained in Accusation No. 800-2020-065801 shall
18 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
19 Issues or any other proceeding seeking to deny or restrict licensure.

20 ACCEPTANCE

21 I have carefully read the above Stipulated Surrender of License and Order and have fully
22 discussed it with my attorney, Peter R. Osinoff, Esq. I understand the stipulation and the effect it
23 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
24 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
25 Decision and Order of the Medical Board of California.

26
27 DATED: 7/7/2023


Harvey Lyons M.D.
HARVEY LYONS, M.D.

Respondent

1 I have read and fully discussed with Respondent Harvey Lyons, M.D. the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4
5
6 DATED:

7/7/2023


PETER R. OSINOFF
Attorney for Respondent

8
9 **ENDORSEMENT**

10 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
11 for consideration by the Medical Board of California of the Department of Consumer Affairs.

12
13 DATED: July 7, 2023

Respectfully submitted,

14 ROB BONTA
15 Attorney General of California
16 EDWARD KIM
Supervising Deputy Attorney General

17 *Christine Friar Walton*

18 CHRISTINE FRIAR WALTON
19 Deputy Attorney General
20 *Attorneys for Complainant*

Exhibit A

Accusation No. 800-2020-065801

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
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6 *Attorneys for Complainant*

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12 **HARVEY LYONS, M.D.**
13 **5881 La Cumbre Road**
14 **Somis, CA 93066**

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. C 38214,**

Respondent.

17
18 **PARTIES**

19 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
20 the Interim Executive Director of the Medical Board of California, Department of Consumer
21 Affairs (Board).

22 2. On or about August 14, 1978, the Board issued Physician's and Surgeon's Certificate
23 Number C 38214 to Harvey Lyons, M.D. (Respondent). The Physician's and Surgeon's
24 Certificate expired on October 31, 2021, and has not been renewed.

25 **JURISDICTION**

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

1 4. Section 2004 of the Code states:

2 The board shall have the responsibility for the following:

3 (a) The enforcement of the disciplinary and criminal provisions of the Medical
4 Practice Act.

5 (b) The administration and hearing of disciplinary actions.

6 (c) Carrying out disciplinary actions appropriate to findings made by a panel or
an administrative law judge.

7 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion
8 of disciplinary actions.

9 (e) Reviewing the quality of medical practice carried out by physician and
surgeon certificate holders under the jurisdiction of the board.

10 (f) Approving undergraduate and graduate medical education programs.

11 (g) Approving clinical clerkship and special programs and hospitals for the
12 programs in subdivision (f).

13 (h) Issuing licenses and certificates under the board's jurisdiction.

14 (i) Administering the board's continuing medical education program.

15 5. Section 2220 of the Code states:

16 Except as otherwise provided by law, the board may take action against all
17 persons guilty of violating this chapter. The board shall enforce and administer this
18 article as to physician and surgeon certificate holders, including those who hold
19 certificates that do not permit them to practice medicine, such as, but not limited to,
retired, inactive, or disabled status certificate holders, and the board shall have all the
powers granted in this chapter for these purposes including, but not limited to:

20 (a) Investigating complaints from the public, from other licensees, from health
21 care facilities, or from the board that a physician and surgeon may be guilty of
22 unprofessional conduct. The board shall investigate the circumstances underlying a
23 report received pursuant to Section 805 or 805.01 within 30 days to determine if an
interim suspension order or temporary restraining order should be issued. The board
shall otherwise provide timely disposition of the reports received pursuant to Section
805 and Section 805.01.

24 (b) Investigating the circumstances of practice of any physician and surgeon
25 where there have been any judgments, settlements, or arbitration awards requiring the
26 physician and surgeon or his or her professional liability insurer to pay an amount in
damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with
respect to any claim that injury or damage was proximately caused by the physician's
and surgeon's error, negligence, or omission.

27 (c) Investigating the nature and causes of injuries from cases which shall be
28 reported of a high number of judgments, settlements, or arbitration awards against a
physician and surgeon.

6. 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.

STATUTORY PROVISIONS

7. 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 that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

(g) The 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.

8. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

///

1 **COST RECOVERY**

2 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **FACTUAL ALLEGATIONS**

9 10. Respondent is currently retired from the practice of medicine. Prior to his retirement
10 he specialized in chronic pain management. Respondent was board certified in internal medicine
11 and nephrology.

12 **Standard of Care**

13 11. When prescribing controlled substances for pain, the standard of care calls for the
14 physician to identify a medical indication for the controlled substance, perform a history and
15 physical examination, formulate a treatment plan which includes medical and functional
16 objectives, nonpharmacologic and rehabilitation programs if indicated. Non-opioid pain
17 management should be exhausted before opioid therapy is started. Periodic review of the
18 treatment plan and goals, opiate tapering, CURES review, urine testing and a pain management
19 agreement should be signed. Prior to starting opioid therapy, an opiate harm assessment should
20 be completed to assess the patient for the risk of opiate abuse or aberrant drug related behavior.

21 12. The standard of care also calls for the physician to keep accurate and complete
22 records, including a medical history, psychiatric history, medications, physical examinations,
23 consultations, prior management, diagnostic studies, current assessment, and treatment plan.

24 **Patient 1¹**

25 13. Respondent provided treatment to Patient 1 at Saviers CFS (Community Memorial
26 Health Center-Saviers Road) in Ventura, California, for complaints of chronic pain. Patient 1,
27 age 33 at the time, had a history of chronic pain syndrome, back pain with radiculopathy,

28 ¹ The patients are identified in this Accusation by number to protect their privacy.

1 fibromyalgia, migraine headaches, obesity, PCOS (polycystic ovary syndrome), diabetes, bipolar
2 disorder, previous suicide attempt, and hypothyroidism.

3 14. According to CURES,² Respondent prescribed Oxycodone, Clonazepam,
4 Buprenorphine, Morphine, and Lyrica to Patient 1 between on or about March 7, 2018 and August
5 1, 2021, without conducting a complete harm assessment on her and/or documenting that he did
6 so.

7 15. Patient 1 was at high risk for a poor outcome on opioid therapy due to her long-term
8 treatment with opioids, bipolar disorder, prior suicide attempt, multiple psychiatric medications,
9 and a positive urine drug screen for marijuana. Due to Patient 1 being at high risk for a poor
10 outcome on opioid therapy, the failure to complete and/or document an opioid harm assessment
11 could have led to controlled substance misuse, adverse drug reactions, drug abuse, and overdose.

12 **Patient 2**

13 16. Respondent provided treatment to Patient 2 at Saviers CFS in Ventura, California, for
14 complaints of chronic pain. Patient 2, age 58 at the time, had a history of bronchitis, back pain,
15 bipolar disorder, chronic pain syndrome, diabetes with retinopathy, neuropathy, GERD
16 (gastroesophageal reflux disease), falls, hypertension, morbid obesity, and restless leg syndrome.

17 17. According to CURES, Respondent prescribed Norco to Patient 2 between on or about
18 July 23, 2019 and July 15, 2021, without conducting a complete harm assessment on her and/or
19 documenting that he did so.

20 18. Patient 2 was at high risk for a poor outcome due her bipolar disorder, concurrent
21 treatment with multiple psychotropic agents, and positive urine drug screens for marijuana and
22 other opiate medications. The failure to complete and/or document a harm assessment could have
23 led to controlled substance misuse, adverse drug reactions, drug abuse, and overdose.

24 ///

25 ///

26 ///

27 ² CURES, the Controlled Substance Utilization Review and Evaluation System, is a
28 database of Schedule II through Schedule V controlled substance prescriptions dispensed in
California.

1 **Patient 3**

2 19. Respondent provided treatment to Patient 3 at the Center for Family Health in
3 Ventura, for chronic pain. Patient 3, age 35 at the time, had a history of bipolar disorder, a
4 history of substance abuse, Lyme Disease, postpartum seizure, and chronic pain syndrome.

5 20. Respondent fell below the standard of care in failing to maintain adequate and
6 accurate medical records for Patient 3. Diagnostic studies, laboratory evaluation results,
7 nonpharmacologic therapy, physical therapy, functional status, urine drug testing, CURES
8 review, a signed pain contract, and informed consent were not adequately or accurately
9 documented in Patient 3's medical record.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Repeated Negligent Acts)**

12 21. Respondent Harvey Lyons, M.D. is subject to disciplinary action under section 2234,
13 subdivision (c), of the Code in that he was negligent in his care of Patient 1 and Patient 2. The
14 circumstances are as follows:

15 22. The facts and allegations set forth in paragraphs 10 through 18, above, are
16 incorporated by reference and realleged as if fully set forth herein.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Failure to Maintain Adequate and Accurate Medical Records)**

19 23. Respondent Harvey Lyons, M.D. is subject to disciplinary action under section 2266
20 of the Code in that he failed to maintain adequate and accurate medical records for Patient 1,
21 Patient 2, and Patient 3. The circumstances are as follows:

22 24. The facts and allegations set forth in paragraphs 10 through 20, above, are
23 incorporated by reference and realleged as if fully set forth herein.

24 **DISCIPLINARY CONSIDERATIONS**

25 25. To determine the degree of discipline, if any, to be imposed on Respondent,
26 Complainant alleges that on or about October 20, 2017, in a prior disciplinary action titled *In the*
27 *Matter of the Accusation Against Harvey Lyons, M.D.*, before the Board in case number 800-
28 2014-007581, Respondent's Physician's and Surgeon's Certificate was revoked, the revocation

1 was stayed and the certificate was placed on probation for three years with terms and conditions.
2 That decision is now final and is incorporated by reference as if fully set forth herein.

3 **PRAYER**

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

6 1. Revoking or suspending Physician's and Surgeon's Certificate Number C 38214,
7 issued to Respondent Harvey Lyons, M.D.;

8 2. Revoking, suspending or denying approval of Respondent Harvey Lyons, M.D.'s
9 authority to supervise physician assistants and advanced practice nurses;

10 3. Ordering Respondent Harvey Lyons, M.D., to pay the Board the costs of the
11 investigation and enforcement of this case, and if placed on probation, the costs of probation
12 monitoring; and

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

14
15 DATED: MAR 16 2023



REJI VARGHESE
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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