

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 TAN N. TRAN
Deputy Attorney General
4 State Bar No. 197775
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-6793
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
12
13 **Charles O. Lewis, M.D.**
1820 West Lacey Blvd., #286
Hanford, CA 93230
14
15 **Physician's and Surgeon's Certificate**
No. A39617,
16
17 Respondent.

Case No. 08-2013-229706
DEFAULT DECISION AND ORDER
[Government Code Section 11520]

18 FINDINGS OF FACT

19 1. On or about September 23, 2015, Complainant Kimberly Kirchmeyer, in her official
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs (Board), filed Accusation No. 08-2013-229706 against Charles O. Lewis, M.D.
22 (Respondent) before the Board.

24 2. On or about March 7, 1983, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A39617 to Charles O. Lewis, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and has expired on March 31, 2016. The Board nonetheless retains jurisdiction over this
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1 matter pursuant to Business and Professions Code section 118. A copy of the Certificate of
2 Licensure is attached as Exhibit A, and is incorporated herein by reference.

3 3. On or about September 23, 2015, the Board, served by Certified and First Class
4 Mail a copy of the Accusation No. 08-2013-229706, Statement to Respondent, Notice of Defense,
5 Request for Discovery, Government Code sections 11507.5, 11507.6, and 11507.7, and Manual
6 of Model Disciplinary Orders to Respondent's address of record with the Board, which was and is
7 1820 West Lacey Blvd., #286, Hanford, CA 93230. On December 30, 2015, a Courtesy Notice of
8 Default was also served on Respondent. A copy of the Courtesy Notice of Default, Accusation,
9 the related documents, and Declarations of Service are attached as Exhibit B, and are
10 incorporated herein by reference.

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

13 5. Government Code section 11506 states, in pertinent part:

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

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

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

22 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
23 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 08-
24 2013-229706.

25 8. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default and finds that based on Business and Professions Code section 2236,
27 Respondent is subject to discipline in that he was convicted of a crime substantially related to the
28 qualifications, functions and duties of a physician and surgeon, and that Respondent was

1 convicted of Insurance Fraud and Conspiracy to Commit Insurance Fraud. A certified copy of the
2 plea agreement is attached as Exhibit C, and it is incorporated herein by reference. The Board
3 will take action without further hearing and, based on Respondent's express admissions by way of
4 default and the evidence before it, contained in Exhibits A, B, and C, and finds that the
5 allegations in Accusation No. 08-2013-229706 are true.

6 DETERMINATION OF ISSUES

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8 1. Based on the foregoing findings of fact, Respondent Charles O. Lewis, M.D. has
9 subjected his Physician's and Surgeon's Certificate License No. A39617, to discipline.

10 2. Pursuant to its authority under California Government Code section 11520, and based
11 on the evidence before it, the Board hereby finds that the charges and allegations contained in
12 Accusation No. 08-2013-229706, and the Findings of fact contained in paragraphs 1 through 8,
13 above, and each of them, separately and severally, are true. A true and correct copy of
14 Accusation No. 08-2013-229706, and the related documents and Declaration of Service are
15 attached as Exhibit B.

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

17 4. The Board is authorized to revoke Respondent's Medical License based upon the
18 following violations alleged in the Accusation:

19 a. On or about November 5, 2014, Respondent was convicted of violating
20 Insurance Code section 1871.4(a)(2) (Insurance Fraud) which is substantially related to the
21 practice of medicine, in violation of Business & Professions Code section 2236. (See
22 Exhibit C).

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ORDER

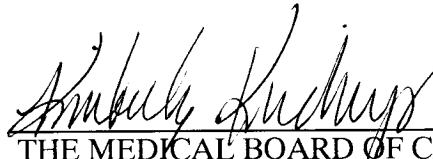
IT IS SO ORDERED THAT Physician's and Surgeon's License Number A 39617 heretofore issued to Charles O. Lewis, is revoked.

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.

If Respondent ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement of a revoked license. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed.

This Decision shall become effective on May 25, 2016.

IT IS SO ORDERED April 25, 2016



THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
Kimberly Kirchmeyer
Executive Director

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 23 2015
BY [Signature] ANALYST

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
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14 **Physician's and Surgeon's Certificate**
15 **No. A39617,**
16 Respondent.

Case No. 08-2013-229706

ACCUSATION

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about March 7, 1983, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A39617 to Charles O. Lewis, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on March 31, 2016, unless renewed.

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1 JURISDICTION

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

4 4. Section 2004 of the Code states:

5 "The board shall have the responsibility for the following:

6 "(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice
7 Act.

8 "(b) The administration and hearing of disciplinary actions.

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

11 "(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of
12 disciplinary actions.

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

15 "(f) Approving undergraduate and graduate medical education programs.

16 "(g) Approving clinical clerkship and special programs and hospitals for the programs in
17 subdivision (f).

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

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

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

24 6. Section 2234 of the Code, states:

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

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

3 "(b) Gross negligence.

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

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

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

14 "(d) Incompetence.

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

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

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

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

26 7. Section 2236 of the Code states:

27 “(a) The conviction of any offense substantially related to the qualifications, functions, or
28 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this

1 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
2 evidence only of the fact that the conviction occurred.

3 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the
4 Division of Medical Quality¹ of the pendency of an action against a licensee charging a felony or
5 misdemeanor immediately upon obtaining information that the defendant is a licensee. The
6 notice shall identify the licensee and describe the crimes charged and the facts alleged. The
7 prosecuting agency shall also notify the clerk of the court in which the action is pending that the
8 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
9 a license as a physician and surgeon.

10 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
11 after the conviction, transmit a certified copy of the record of conviction to the board. The
12 division may inquire into the circumstances surrounding the commission of a crime in order to fix
13 the degree of discipline or to determine if the conviction is of an offense substantially related to
14 the qualifications, functions, or duties of a physician and surgeon.

15 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
16 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
17 shall be conclusive evidence of the fact that the conviction occurred.”

18 8. Section 802.1 of the Code states:

19 “(a) (1) A physician and surgeon, osteopathic physician and surgeon, and a doctor of
20 podiatric medicine shall report either of the following to the entity that issued his or her license:

21 “(A) The bringing of an indictment or information charging a felony
22 against the licensee.

23 “(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no
24 contest, of any felony or misdemeanor.

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, section 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 Code.

2 15. Paragraphs 10 through 11, inclusive, above are incorporated by reference herein as if
3 fully set forth.

4 FOURTH CAUSE FOR DISCIPLINE

5 (Dishonest/Corrupt Acts)

6 16. By reason of the facts and opinions set forth in the First Cause for Discipline above,
7 Respondent is subject to disciplinary action for dishonest/corrupt acts under section 2234,
8 subdivision (e), of the Code.

9
10 17. Paragraphs 10 through 11, inclusive, above are incorporated by reference herein as if
11 fully set forth.

12
13 PRAYER

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

- 16 1. Revoking or suspending Physician's and Surgeon's Certificate Number A39617,
17 issued to Charles O. Lewis, M.D.;
- 18 2. Revoking, suspending or denying approval of Charles O. Lewis, M.D.'s authority to
19 supervise physician assistants, pursuant to section 3527 of the Code;
- 20 3. Ordering Charles O. Lewis, M.D., if placed on probation, to pay the Board the costs
21 of probation monitoring;
- 22 4. Ordering Charles O. Lewis, M.D. to pay fines and penalties pursuant to section 802.1
23 of the Code; and

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

DATED: September 23, 2015


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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