

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

In the Matter of the Accusation Against:)

STANLEY LOWE, D.P.M.)

Case No. 500-2016-000461

Doctor of Podiatric Medicine)

License No. E 3480)

Respondent.)

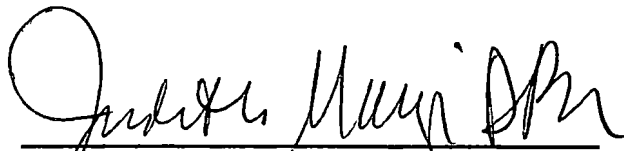
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Podiatric Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on November 20, 2019.

IT IS SO ORDERED: October 21, 2019.

PODIATRIC MEDICAL BOARD OF CALIFORNIA



Judith Manzi, D.P.M., President

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRIS LEONG
Deputy Attorney General
4 State Bar No. 141079
California Department of Justice
5 300 South Spring Street, Suite 1702
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6 Telephone: (213) 269-6460
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 500-2016-000461

12 STANLEY LOWE, D.P.M.

OAH No. 2019031092

13 1280 Huntington Drive
San Marino, California 91108

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Doctor of Podiatric Medicine License
15 No. E 3480,

16 Respondent.

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

20 **PARTIES**

21 1. Brian Naslund (Complainant) is the Executive Officer of the Podiatric Medical Board
22 (Board). He brought this action solely in his official capacity and is represented in this matter by
23 Xavier Becerra, Attorney General of the State of California, by Chris Leong, Deputy Attorney
24 General.

25 2. Stanley Lowe, D.P.M. (Respondent) is represented in this proceeding by attorney
26 Raymond J. McMahon, whose address is: 5440 Trabuco Road, Irvine, California 92620.

27 3. On August 24, 1987, the Board issued Doctor of Podiatric Medicine License
28 No. E 3480 to Stanley Lowe, D.P.M. (Respondent). That license was in full force and effect at all

1 times relevant to the charges brought in Accusation No. 500-2016-000461, and will expire on
2 March 31, 2021, unless renewed.

3 JURISDICTION

4 Accusation No. 500-2016-000461 was filed before the Board, and is currently pending
5 against Respondent. The Accusation and all other statutorily required documents were properly
6 served on Respondent on February 21, 2019. Respondent timely filed his Notice of Defense
7 contesting the Accusation.

8 4. A copy of Accusation No. 500-2016-000461 is attached as Exhibit A and is
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 500-2016-000461. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

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

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

23 CULPABILITY

24 8. Respondent understands and agrees that the charges and allegations in Accusation
25 No. 500-2016-000461, if proven at a hearing, constitute cause for imposing discipline upon his
26 Doctor of Podiatric Medicine License.

27 9. For the purpose of resolving the Accusation without the expense and uncertainty of
28 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima

1 facie case for the charges in the Accusation, and that Respondent hereby gives up his right to
2 contest those charges.

3 10. Respondent agrees that his Doctor of Podiatric Medicine License is subject to
4 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
5 Disciplinary Order below.

6 11. Respondent agrees that if he ever petitions for early termination of probation or
7 modification of probation, or if the Board ever petitions for revocation of probation, all of the
8 charges and allegations contained in Accusation No. 500-2016-000461, shall be deemed true,
9 correct and fully admitted by Respondent for purpose of that proceeding or any other licensing
10 proceeding involving Respondent in the State of California.

11 CONTINGENCY

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

22 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
24 signatures thereto, shall have the same force and effect as the originals.

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

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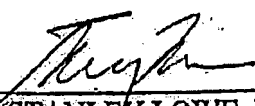
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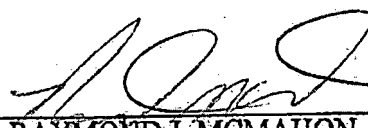
1 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Podiatric Medical Board.

3
4 DATED: 9/13/19


STANLEY LOWE, D.P.M.
Respondent

6 I have read and fully discussed with Respondent Stanley Lowe, D.P.M. the terms and
7 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
8 I approve its form and content.

9
10 DATED: September 13, 2019


RAYMOND J. MCMAHON
Attorney for Respondent

12 **ENDORSEMENT**

13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
14 submitted for consideration by the Podiatric Medical Board.

15 DATED: 9/13/2019

Respectfully submitted,

17 XAVIER BECERRA
Attorney General of California
18 ROBERT MCKIM BELL
Supervising Deputy Attorney General

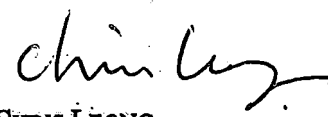
19 
20 CHRIS LEONG
21 Deputy Attorney General
22 Attorneys for Complainant

Exhibit A

Accusation No. 500-2016-000461

1 XAVIER BECERRA
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2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
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Deputy Attorney General
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Attorneys for Complainant
8

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb. 21 20 19
BY SUNASIN ANALYST

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**BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 500-2016-000461

**STANLEY LOWE, D.P.M.
1280 Huntington Drive
San Marino, California 91108**

A C C U S A T I O N

Podiatrist License No. D.P.M 3480,

Respondent.

Complainant alleges:

PARTIES

1. Brian Naslund (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Podiatric Medicine (Board).

2. On August 24, 1987, the Board issued Podiatrist License Number DPM 3480 to Stanley Lowe, D.P.M. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2019, unless renewed.

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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 (Code) unless otherwise indicated.

4. Section 2222 of the Code states the California Board of Podiatric Medicine shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed doctors of podiatric medicine.

The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter.

5. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

1 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon
2 order of the board.

3 “(4) Be publicly reprimanded by the board. The public reprimand may include a
4 requirement that the licensee complete relevant educational courses approved by the board.

5 “(5) Have any other action taken in relation to discipline as part of an order of probation, as
6 the board or an administrative law judge may deem proper.

7 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
8 review or advisory conferences, professional competency examinations, continuing education
9 activities, and cost reimbursement associated therewith that are agreed to with the board and
10 successfully completed by the licensee, or other matters made confidential or privileged by
11 existing law, is deemed public, and shall be made available to the public by the board pursuant to
12 Section 803.1.”

13 6. Section 2234 of the Code, states:

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

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

19 “(b) Gross negligence.

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

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

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

3 “(d) Incompetence.

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

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

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

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

14 7. Section 2497 of the Code states:

15 “(a) The board may order the denial of an application for, or the suspension of, or the
16 revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric
17 medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in
18 accordance with Section 2222.

19 “(b) The board may hear all matters, including but not limited to, any contested case or may
20 assign any such matters to an administrative law judge. The proceedings shall be held in
21 accordance with Section 2230. If a contested case is heard by the board itself, the administrative
22 law judge who presided at the hearing shall be present during the board's consideration of the case
23 and shall assist and advise the board.’

24 8. Section 2472 of the Code states:

25 “(a) The certificate to practice podiatric medicine authorizes the holder to practice podiatric
26 medicine.

27 “(b) As used in this chapter, ‘podiatric medicine’ means the diagnosis, medical, surgical,
28 mechanical, manipulative, and electrical treatment of the human foot, including the ankle and

1 tendons that insert into the foot and the nonsurgical treatment of the muscles and tendons of the
2 leg governing the functions of the foot.

3 '(c) A doctor of podiatric medicine may not administer an anesthetic other than local. If an
4 anesthetic other than local is required for any procedure, the anesthetic shall be administered by
5 another licensed health care practitioner who is authorized to administer the required anesthetic
6 within the scope of his or her practice.

7 '(d)(1) A doctor of podiatric medicine who is ankle certified by the board on and after
8 January 1, 1984, may do the following:

9 '(A) Perform surgical treatment of the ankle and tendons at the level of the ankle pursuant
10 to subdivision (e).

11 '(B) Perform services under the direct supervision of a physician and surgeon, as an
12 assistant at surgery, in surgical procedures that are otherwise beyond the scope of practice of a
13 doctor of podiatric medicine.

14 '(C) Perform a partial amputation of the foot no further proximal than the Chopart's joint.

15 '(2) Nothing in this subdivision shall be construed to permit a doctor of podiatric medicine
16 to function as a primary surgeon for any procedure beyond his or her scope of practice.

17 '(e) A doctor of podiatric medicine may perform surgical treatment of the ankle and
18 tendons at the level of the ankle only in the following locations:

19 '(1) A licensed general acute care hospital, as defined in Section 1250 of the Health and
20 Safety Code.

21 '(2) A licensed surgical clinic, as defined in Section 1204 of the Health and Safety Code, if
22 the doctor of podiatric medicine has surgical privileges, including the privilege to perform
23 surgery on the ankle, in a general acute care hospital described in subparagraph (1) and meets all
24 the protocols of the surgical clinic.

25 '(3) An ambulatory surgical center that is certified to participate in the Medicare program
26 under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of
27 podiatric medicine has surgical privileges, including the privilege to perform surgery on the
28

1 ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of
2 the surgical center.

3 '(4) A freestanding physical plant housing outpatient services of a licensed general acute
4 care hospital, as defined in Section 1250 of the Health and Safety Code, if the doctor of podiatric
5 medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a
6 general acute care hospital described in paragraph (1). For purposes of this section, a
7 'freestanding physical plant' means any building that is not physically attached to a building
8 where inpatient services are provided.

9 '(5) An outpatient setting accredited pursuant to subdivision (g) of Section 1248.1 of the
10 Health and Safety Code.'

11 **COST RECOVERY**

12 9. Section 2497.5 of the Code states:

13 '(a) The board may request the administrative law judge, under his or her proposed decision
14 in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of
15 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of
16 the investigation and prosecution of the case.

17 '(b) The costs to be assessed shall be fixed by the administrative law judge and shall not be
18 increased by the board unless the board does not adopt a proposed decision and in making its own
19 decision finds grounds for increasing the costs to be assessed, not to exceed the actual and
20 reasonable costs of the investigation and prosecution of the case.

21 '(c) When the payment directed in the board's order for payment of costs is not made by the
22 licensee, the board may enforce the order for payment by bringing an action in any appropriate
23 court. This right of enforcement shall be in addition to any other rights the board may have as to
24 any licensee directed to pay costs.

25 '(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
26 conclusive proof of the validity of the order of payment and the terms for payment.'(e)(1) Except
27 as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee
28 who has failed to pay all of the costs ordered under this section.'(2) Notwithstanding paragraph

1 (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year
2 the license of any licensee who demonstrates financial hardship and who enters into a formal
3 agreement with the board to reimburse the board within one year period for those unpaid costs.

4 '(f) All costs recovered under this section shall be deposited in the Board of Podiatric
5 Medicine Fund as a reimbursement in either the fiscal year in which the costs are actually
6 recovered or the previous fiscal year, as the board may direct.'

7 CASE SUMMARY

8 10. This case involves an insulin-dependent diabetic patient (hereinafter "the Patient")
9 with a Charcot collapse¹ and dislocation of his left foot. He was evaluated preoperatively by
10 Respondent.

11 11. On November 30, 2016, Respondent performed surgery on Patient. Respondent was
12 assisted by J.N.,² DPM and by K.C., D.P.M, a first-year resident. The five-hour surgery involved
13 open reduction and internal fixation of mid-foot fractures and Charcot degeneration. At the
14 conclusion of the case, Respondent opted to place an external fixation frame, due to perceived
15 instability of the fracture sites.

16 12. Respondent was unfamiliar with the external fixation frame. During the placing of
17 the external fixation frame, Respondent inserted the anchoring distal pins into the Patient's soft
18 tissue, instead of the calcaneus (bone). Both J.N. and K.C. related this information to Respondent
19 during the procedure. Respondent dismissed their concerns.

20 13. Respondent used intraoperative x-rays, to confirm pin placement. Respondent did not
21 use fluoroscopy or arthroscopy (direct visualization). Postoperative X-rays read by a radiologist,
22 Dr. R., on November 30, 2016, confirmed that the distal pins were not within the bone. This
23 rendered the external fixation frame non-functional. The middle securing pins were observed.

24
25 ¹ Charcot foot is a condition causing weakening of the bones in the foot that can occur in
26 people who have significant nerve damage (neuropathy). The bones are weakened enough to
27 fracture, and with continued walking, the foot eventually changes shape. As the disorder
progresses, the joints collapse and the foot takes on an abnormal shape, such as a rocker-bottom
appearance. Charcot foot is a serious condition that can lead to severe deformity, disability and
even amputation.

28 ² Names are reduced to initials for privacy.

1 The radiologist also suspected that at least one of the two middle securing pins were outside of
2 the tibia, in the anterior pretibial soft tissue. The Patient subsequently returned to the hospital for
3 corrective surgery to correct the issues from the surgery performed by Respondent.

4 14. The standard of care requires that the surgeon be competent and knowledgeable
5 regarding the use of fixation devices, and their application to achieve the intended surgical result.

6 15. The standard of care dictates that the surgeon must confirm the proper placement and
7 stability of the hardware. This should be done by using imaging or under direct visualization
8 (arthroscopy³). The utilization of fixation hardware in surgery demands substantive knowledge
9 about principles of fixation and the materials, including the use of pins.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Gross Negligence)

12 16. By reason of the facts and circumstances alleged above in paragraphs 10 through 14,
13 Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in
14 that he was grossly negligent in his care and treatment of the Patient. The circumstances are as
15 follows:

16 A. Respondent failed to properly perform open reduction and fixation.

17 B. Respondent failed to understand and to utilize fixation devices properly.

18 C. Respondent failed to perform the proper protocol to determine stability of
19 surgical site.

20 D. Respondent failed to obtain intraoperative evidence to confirm if there was
21 proper pin placement, specifically by use of fluoroscopy.

22 E. Respondent failed to consider the observations of assistant surgeons and the
23 radiologist regarding the placement of the external fixation frame and the pins.

24 //

25 //

26 //

27 ³ Arthroscopy is a procedure for diagnosing and treating joint problems by which a
28 surgeon inserts a narrow tube attached to a fiber-optic video camera through a small incision.
The view inside the joint is then transmitted to a high-definition video monitor.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Repeated Negligent Acts)

3 17. By reason of the facts set forth above, Respondent is subject to disciplinary action
4 under section 2234, subdivision (c), of the Code for repeated negligent acts in the care of the
5 Patient.

6 **THIRD CAUSE FOR DISCIPLINE**

7 (Unprofessional Conduct)

8 18. By reason of the facts set forth above, Respondent is subject to disciplinary action
9 under section 2234 of the Code for unprofessional conduct relating to his care and treatment of
10 the Patient.

11 **PRAYER**

12 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Podiatric Medicine issue a decision:

14 1. Revoking or suspending Podiatrist License Number DPM 3480, issued to Stanley
15 Lowe, D.P.M.;

16 2. Ordering him to pay the Board of Podiatric Medicine the reasonable costs of the
17 investigation and enforcement of this case, pursuant to Business and Professions Code section
18 2497.5;

19 3. If placed on probation, ordering him to pay the Board of Podiatric Medicine the
20 probation monitoring, if placed on probation; and

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

22
23 DATED: February 21, 2019



24 BRIAN NASLUND
25 Executive Officer
26 Board of Podiatric Medicine
27 Department of Consumer Affairs
28 State of California

Complainant

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