

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CLAUDIA RAMIREZ
Deputy Attorney General
4 State Bar No. 205340
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 897-5678
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 16-2012-228698

12 TODD MICHAEL CLEMENTS, M.D.
311 South Main Street, #A
13 Jonesboro, Arkansas 72401

**DEFAULT DECISION
AND ORDER**

14 Physician's and Surgeon's Certificate
15 No. AFE 94598,

[Gov. Code, §11520.]

16 Respondent.

17
18 FINDINGS OF FACT

19 1. On or about March 24, 2006, the Medical Board of California (“Board”) issued
20 Physician's and Surgeon's Certificate No. AFE 94598 to Respondent Todd Michael Clements,
21 M.D. (“Respondent”). That license is currently delinquent, having expired on May 31, 2013. A
22 Certificate of Licensure is attached as Exhibit A and incorporated by reference.

23 2. On or about November 13, 2013, Complainant Kimberly Kirchmeyer, in her official
24 capacity as the Executive Director of the Board, filed an Accusation against Respondent in case
25 number 16-2012-228698.

26 3. On or about November 13, 2013, Kelly Montalbano, an Associate Analyst of the
27 Board’s Discipline Coordination Unit, served by Certified Mail a copy of the Accusation No. 16-
28 2012-228698, a Statement to Respondent, a Notice of Defense, a Request for Discovery, and

1 copies of Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of
2 record with the Board, which was and is 311 South Main Street, #A, Jonesboro, Arkansas, 72401.
3 Copies of the Accusation, related documents, Declaration of Service, and U.S. Postal Service
4 Certified Mail Receipt are attached as Exhibit B and incorporated by reference.

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

7 5. On or about December 16, 2013, the aforementioned documents were returned by the
8 U.S. Postal Service marked "Unclaimed." A copy of the envelope returned by the U.S. Postal
9 Service and returned documents are attached as Exhibit C and incorporated by reference.

10 6. The Declaration of Claudia Ramirez attesting to the foregoing facts is attached as
11 Exhibit D and incorporated by reference.

12 7. Government Code section 11506, subdivision (c) states, in pertinent part:

13 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
14 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
15 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
16 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
18 Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 16-2012-
19 228698.

20 8. California Government Code section 11520, subdivision (a) states, in pertinent part:

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

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on
26 Respondent's express admissions by way of default and the evidence before it, contained in
27 Exhibits A, B, C, D, E, and F finds that the allegations in Accusation No. 16-2012-228698 are
28 true.

1 DETERMINATION OF ISSUES

- 2 1. Based on the foregoing findings of fact, Respondent Todd Michael Clements, M.D.
3 has subjected his Physician's and Surgeon's Certificate No. AFE 94598 to discipline.
- 4 2. Copies of the Accusation, related documents, and Declaration of Service are attached.
- 5 3. The agency has jurisdiction to adjudicate this case by default.
- 6 4. The Medical Board of California is authorized to revoke Respondent's Physician's
7 and Surgeon's Certificate based upon the following violations alleged in the Accusation:
- 8 a. The permanent cancelation of Respondent's license to practice medicine in the
9 State of Texas;
- 10 b. Respondent's conviction of a crime substantially related to the qualifications,
11 functions, and duties of a physician and surgeon, namely prescription fraud; and
- 12 c. Respondent's commission of dishonest and corrupt acts substantially related to
13 the qualifications, functions, and duties of a physician and surgeon, namely prescription fraud.

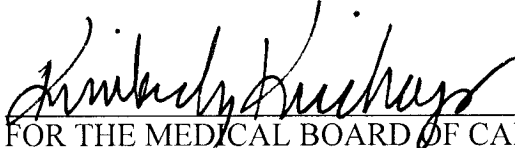
14 ORDER

15 **IT IS SO ORDERED** that Physician's and Surgeon's Certificate No. AFE 94598,
16 heretofore issued to Respondent Todd Clements, M.D., is revoked.

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

21 This Decision shall become effective on April 18, 2014.

22 **IT IS SO ORDERED** March 21, 2014

23
24 
25 FOR THE MEDICAL BOARD OF CALIFORNIA
26 DEPARTMENT OF CONSUMER AFFAIRS
27 Kimberly Kirchmeyer
28 Executive Director

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

11 In the Matter of the Accusation Against:
12 TODD MICHAEL CLEMENTS, M.D.
311 South Main Street, #A
13 Jonesboro, Arkansas 72401
14 Physician's and Surgeon's Certificate
No. AFE 94598,
15
16 Respondent.

Case No. 16-2012-228698

ACCUSATION

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about March 24, 2006, the Medical Board of California issued Physician's and
23 Surgeon's Certificate Number AFE 94598 to Todd Michael Clements, M.D. ("Respondent").
24 That license is currently delinquent, having expired on May 31, 2013.

25 **JURISDICTION**

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

1 4. Section 141 of the Code states:

2 "(a) For any licensee holding a license issued by a board under the jurisdiction of the
3 department, a disciplinary action taken by another state, by any agency of the federal government,
4 or by another country for any act substantially related to the practice regulated by the California
5 license, may be a ground for disciplinary action by the respective state licensing board. A
6 certified copy of the record of the disciplinary action taken against the licensee by another state,
7 an agency of the federal government, or another country shall be conclusive evidence of the
8 events related therein.

9 "(b) Nothing in this section shall preclude a board from applying a specific statutory
10 provision in the licensing act administered by that board that provides for discipline based upon a
11 disciplinary action taken against the licensee by another state, an agency of the federal
12 government, or another country."

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

17 6. Section 2305 of the Code states:

18 "The revocation, suspension, or other discipline, restriction or limitation imposed by
19 another state upon a license or certificate to practice medicine issued by that state, or the
20 revocation, suspension, or restriction of the authority to practice medicine by any agency of the
21 federal government, that would have been grounds for discipline in California of a licensee under
22 this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action
23 for unprofessional conduct against the licensee in this state."

24 7. Section 2234, subdivision (a) and (e) 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:

28 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the

1 violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical
2 Practice Act]. . . .

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

5 8. Section 2236 of the Code states:

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

13 9. Section 2261 of the Code states:

14 "Knowingly making or signing any certificate or other document directly or indirectly
15 related to the practice of medicine or podiatry which falsely represents the existence or
16 nonexistence of a state of facts, constitutes unprofessional conduct."

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

21 11. Section 493 of the Code states:

22 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
23 the department pursuant to law to deny an application for a license or to suspend or revoke a
24 license or otherwise take disciplinary action against a person who holds a license, upon the
25 ground that the applicant or the licensee has been convicted of a crime substantially related to the
26 qualifications, functions, and duties of the licensee in question, the record of conviction of the
27 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
28 and the board may inquire into the circumstances surrounding the commission of the crime in

1 order to fix the degree of discipline or to determine if the conviction is substantially related to the
2 qualifications, functions, and duties of the licensee in question.

3 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
4 'registration.'"

5 12. California Code of Regulations, title 16, section 1360, states:

6 "For the purposes of denial, suspension or revocation of a license, certificate or permit
7 pursuant to Division 1.5 (commencing with Section 475) of the [C]ode, a crime or act shall be
8 considered to be substantially related to the qualifications, functions or duties of a person holding
9 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
10 evidences present or potential unfitness of a person holding a license, certificate or permit to
11 perform the functions authorized by the license, certificate or permit in a manner consistent with
12 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
13 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
14 violation of, or conspiring to violate any provision of the Medical Practice Act."

15 **FIRST CAUSE FOR DISCIPLINE**

16 (Discipline, Restriction, or Limitation Imposed by Another State)

17 13. Respondent is subject to disciplinary action under Code sections 141, subdivision (a)
18 and 2305 for unprofessional conduct as a result of the permanent cancelation of Respondent's
19 license to practice medicine in the State of Texas. The circumstances are as follows:

20 14. On or about November 30, 2012, in *In the Matter of the Voluntary Surrender Against*
21 *Todd Clements, M.D.*, License No. L-9148, the Texas Medical Board issued an Agreed Order of
22 Voluntary Surrender ("Agreed Order") regarding Respondent's license to practice medicine in the
23 State of Texas. The Texas Medical Board made factual findings that Respondent, who
24 specializes in psychiatry, was indicted on one count of prescription fraud in Collin County, Texas.
25 The Texas Medical Board further found that Respondent requested that the voluntarily surrender
26 of his Texas Medical License be accepted in lieu of further disciplinary proceedings and that the
27 voluntary surrender be effective on the date of the entry of the Agreed Order.

28 15. The Texas Medical Board granted Respondent's request and entered an order

1 permanently canceling Respondent's Texas Medical License. The order became effective on
2 November 30, 2012. Attached hereto as Exhibit A is a true and correct copy of the Agreed Order
3 issued by the Texas Medical Board.

4 **SECOND CAUSE FOR DISCIPLINE**

5 (Conviction of Substantially Related Crime-Prescription Fraud)

6 16. Respondent is subject to disciplinary action under Code section 2236 in that he was
7 convicted of a crime substantially related to the qualifications, functions, and duties of a
8 physician and surgeon, namely prescription fraud. The circumstances are as follows:

9 17. On or about July 24, 2012, Respondent was charged in *The State of Texas v. Todd*
10 *Michael Clements*, Collin County, Cause No. 366-81652-2012 as follows:

11 A. Count 1: On or about the March 1, 2010, in Collin County, Texas, Respondent
12 committed prescription fraud involving lisdexamphetamine, a controlled substance.

13 B. Count 2: On or about August 5, 2009, in Collin County, Texas, Respondent
14 committed prescription fraud involving zolpidem, a controlled substance.

15 C. Count 3: On or about the March 1, 2010, in Collin County, Texas, Respondent
16 committed prescription fraud involving zolpidem , a controlled substance.

17 18. Lisdexamphetamine is a Schedule II controlled substance. Zolpidem is a Schedule IV
18 controlled substance.

19 19. On or about November 14, 2012, Respondent pled guilty to Counts 1 through 3 and
20 waived the right of appeal. As to Count 1, Respondent was convicted of violating Texas Health
21 and Safety Code section 481.129, subdivision (c)(1) (fraud), a second degree felony. As to
22 Counts 2 and 3, Respondent was convicted of violating Texas Health and Safety Code section
23 481.129, subdivision (c)(1) (fraud), a third degree felony.

24 20. Respondent was sentenced to 10 years confinement. Imposition of sentence was
25 suspended and he was placed on probation for 10 years under the terms and conditions ordered by
26 the court, including, but not limited to, post-conviction community supervision for 10 years, a
27 \$2,500 fine, 100 hours of community service, and voluntary and permanent surrender of his
28 medical license.

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct--Act Involving Dishonesty and Corruption)

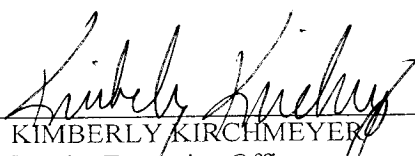
3 21. Respondent is subject to disciplinary action under Code section 2234, subdivision (e)
4 for unprofessional conduct by committing dishonest and corrupt acts substantially related to the
5 qualifications, functions, or duties of a physician and surgeon for the reasons articulated above.
6 Paragraphs 17 through 20 are incorporated by reference and re-alleged as if fully set forth herein.

7 **PRAYER**

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

- 10 1. Revoking or suspending Physician's and Surgeon's Certificate Number AFE 94598,
11 issued to Respondent;
- 12 2. Revoking, suspending, or denying approval of Respondent's authority to supervise
13 physician assistants;
- 14 3. Ordering Respondent, if placed on probation, to pay the costs of probation
15 monitoring; and
- 16 4. Taking such other and further action as the Board deems necessary and proper.
- 17

18
19 DATED: November 13, 2013


KIMBERLY KIRCHMEYER
Interim Executive Officer
Medical Board of California
Department of Consumer Affairs
State of California

20
21
22 *Complainant*

EXHIBIT A

LICENSE NO. L-9148

IN THE MATTER OF

BEFORE THE

THE LICENSE OF

TODD MICHAEL CLEMENTS, M.D.

TEXAS MEDICAL BOARD

AGREED ORDER OF VOLUNTARY SURRENDER

On the 30 day of November, 2012, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Todd Michael Clements, M.D. (Respondent).

By the signature of Respondent on this Order, Respondent waives the right to appear at an Informal Show Compliance Proceeding and Settlement Conference pursuant to Section 164.004, Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code and Board Rule 187.18 and all rights pursuant to Sections 2001.051 and 2001.054, Texas Government Code, including but not limited to, the right to notice and hearing, and instead agrees to the entry of this Order to resolve matters addressed herein. Susan Rodriguez prepared this Agreed Order of Voluntary Surrender.

With the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds that:

1. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the Act) or the Rules of the Board.

2. Respondent currently holds Texas Medical License No. L-9148. Respondent was originally issued this license to practice medicine in Texas on August 13, 2004.

3. Respondent was primarily engaged in the practice of psychiatry. Respondent is board certified by the American Board of Psychiatry and Neurology, a member of the American Board of Medical Specialties.

4. Respondent is 43 years of age.

5. Respondent was indicted on one count of prescription fraud in Collin County, Texas.

6. By Respondent's signature on this Agreed Order, Respondent requests that the voluntary surrender of his Texas Medical License be accepted in lieu of further disciplinary proceedings and that the voluntary surrender of his Texas Medical License be effective on the date of the entry of this Agreed Order.

7. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.

2. Section 164.061 of the Act and 22 TEX. ADMIN. CODE 196.1 and 196.2 authorize the Board to accept the voluntary and permanent surrender of Respondent's Texas Medical License.

3. This Order is based on Finding No. 5 and the specific authority of Section 164.053(a)(5) of the Act.

4. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that:

1. The voluntary and permanent surrender of Respondent's Texas Medical License should be, and is, accepted by the Board effective on the date this Order is signed by the President of the Board.

2. Respondent's Texas Medical License L-9148 is, therefore, permanently canceled.

3. Respondent shall immediately cease practice in Texas. Respondent's practice in the state of Texas after the date of entry of this Agreed Order shall constitute a violation of this Order, subjecting Respondent to disciplinary action by the Board or prosecution for practicing without a license in Texas.

4. Respondent shall not petition the Board for reinstatement of his Texas Medical License.

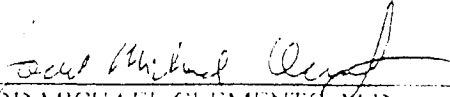
5. By this voluntary and permanent surrender of Respondent's Texas Medical License, Respondent resolves any and all complaints currently before the Board.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

[SIGNATURE PAGES FOLLOW]

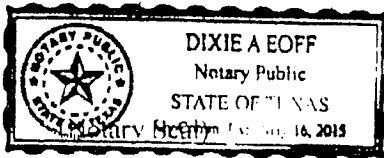
I, TODD MICHAEL CLEMENTS, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.


TODD MICHAEL CLEMENTS, M.D.
Respondent

STATE OF Texas
COUNTY OF Collin

§
§
§

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public,
on this 14th day of November, 2012




Signature of Notary Public

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
30 day of November, 2012

Irvin E. Zeitler, Jr.
Irvin E. Zeitler, Jr., D.O. President
Texas Medical Board

Gaby Loredo certify that I am an official
member of the Texas Medical Board and
I am providing a true and correct copy of the original, as it
appears on file in this office.

In presence my official hand and seal of the BOARD.

This 14th day of December, 2012

Gaby Loredo
Member of the Board of Records