

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

In the Matter of the Accusation)
Against:)

JAMES WHITTON LOWE, M.D.)

Case No. 16-2009-198001

Physician's and Surgeon's)
Certificate No. A-73317)

Respondent)
_____)

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted by the 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 September 8, 2009

IT IS SO ORDERED August 28, 2009.

MEDICAL BOARD OF CALIFORNIA

By: Kimberly Kirkhoyt
Barbara Johnston,
Executive Director

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1 EDMUND G. BROWN JR.
 Attorney General of California
 2 JOSE R. GUERRERO
 Supervising Deputy Attorney General
 3 SUSAN K. MEADOWS
 Deputy Attorney General
 4 State Bar No. 115092
 455 Golden Gate Avenue, Suite 11000
 5 San Francisco, CA 94102-7004
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 16-2009-198001

11 **JAMES WHITTON LOWE, M.D.**
 12 P.O. Box 13742
 13 New Orleans, LA 70185-3742

**STIPULATED SURRENDER OF
 LICENSE AND ORDER**

14 Physician's and Surgeon's Certificate
 No. A 73317

15 Respondent.

16
 17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
 18 proceeding that the following matters are true:

19 1. Barbara Johnston (Complainant) is the Executive Director of the Board. She brought
 20 this action solely in her official capacity as and is represented in this matter by Edmund G. Brown
 21 Jr., Attorney General of the State of California, by Susan K. Meadows, Deputy Attorney General.

22 2. James Whitton Lowe, M.D. (Respondent) is represented in this proceeding by
 23 attorney Mr. Sean Finan, Esquire, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, 1600
 24 Wachovia Tower, 420 20th Street North, Birmingham, AL 35203.

25 3. Respondent has received, and discussed with counsel, the Accusation which is
 26 presently on file and pending in case number 16-2009-198001, a copy of which is attached as
 27 Exhibit A.

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1 4. Respondent has carefully read, discussed with counsel, and understands the charges
 2 and allegations in Accusation No. 16-2009-198001. ("Accusation") Respondent also has
 3 carefully read and understands the effects of this Stipulated Surrender of License ("Stipulation").

4 5. Respondent is fully aware of his legal rights in this matter, including the right to a
 5 hearing on the charges and allegations in the Accusation, the right to be represented by counsel, at
 6 his own expense; the right to confront and cross-examine the witness against him; the right to
 7 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
 8 the attendance of witness and the production of documents; the right to reconsideration and court
 9 review of an adverse decision; and other rights accorded by the California Administrative
 10 Procedure Act and other applicable laws.

11 6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
 12 every right set forth above.

13 7. Respondent agrees that based on the action taken by the Louisiana State Board of
 14 Medical Examiners as alleged in the Accusation, cause exists to discipline his California
 15 physician's and surgeon's certificate pursuant to Business and Professions Code sections 141 and
 16 2305. Respondent has no present plans to return to California. He wishes to surrender his
 17 California license at this time.

18 8. This Stipulation shall be subject to the approval of the Board. Respondent
 19 understands and agrees that the Medical Board's staff and counsel for complainant may
 20 communicate directly with the Board regarding this Stipulation without notice or participation by
 21 respondent. By signing this Stipulation, respondent understands and agrees that he may not
 22 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
 23 and acts upon it. In the event that this Stipulation is rejected for any reason by the Board, it will
 24 be of no force or effect for either party, and the Board will not be disqualified from further action
 25 in this matter by virtue of its consideration of this Stipulation.

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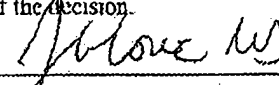
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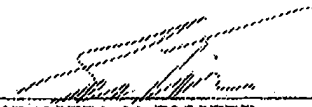
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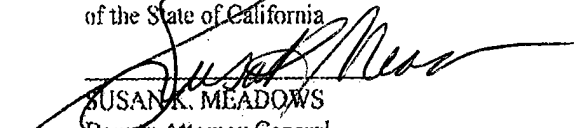
1 California and I also will cause to be delivered to the Board any license and wallet certificate in
2 my possession before the effective date of the decision.

3 DATED: 7/31/09 
4 JAMES WHITTON LOWE, M.D.
5 Respondent

6 I CONCUR
7 DATED: 7/31/09 
8 SEAN FINAN, ESQUIRE
9 BAKER, DONELSON, BEARMAN,
10 CALDWELL & BERKOWITZ, PC
11 Attorneys for Respondent

ENDORSEMENT

12 The foregoing Stipulation is hereby respectfully submitted for consideration by the Medical
13 Board of California.

14 DATED: 8/11/09
15 EDMUND G. BROWN JR., Attorney General
16 of the State of California
17 
18 SUSANA MEADOWS
19 Deputy Attorney General
20 Attorneys for Complainant

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EXHIBIT A

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 Supervising Deputy Attorney General
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 6 Facsimile: (415) 703-5480
Attorneys for Complainant

FILED
 STATE OF CALIFORNIA
 MEDICAL BOARD OF CALIFORNIA
 SACRAMENTO July 15 2009
 BY: *[Signature]*

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

11 In the Matter of the Accusation Against:

Case No. 16-2009-198001

12 JAMES WHITTON LOWE, M.D.
 P.O. Box 13742
 13 New Orleans, LA 70185-3742

ACCUSATION

14 Physician's and Surgeon's Certificate
 No. A 73317

Respondent.

18 Complainant alleges:

PARTIES

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

23 2. On or about October 19, 2000, the Medical Board of California issued Physician's
 24 and Surgeon's Certificate Number A 73317 to James Whitton Lowe, M.D. (Respondent). The
 25 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
 26 charges brought herein and will expire on October 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California¹ (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

A. 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 Division deems proper.

B. Section 2305 of the Code states:

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

C. Section 141 of the Code provides:

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

¹ . Cal. Bus. & Prof. Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical practice Act (Cal. Bus. & Prof. Code, sections 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.

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

5 4. Respondent is subject to discipline within the meaning of section 2305 of the Code as
6 more particularly set forth herein below.

7 **FIRST CAUSE FOR DISCIPLINE**

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

9 5. On or about March 11, 2009, the Louisiana State Board of Medical Examiners
10 (hereinafter "Louisiana Medical Examiners") issued a Order of Summary Suspension (hereinafter
11 "Order") against respondent's medical license. The Order required Respondent's medical license
12 to be suspended immediately. The Medical Examiners alleged that Respondent violated sexual
13 boundaries with several of his patients and prescribed controlled substances in an illegitimate
14 manner to individuals when he was not providing any medical or therapeutic treatment.

15 6. The above action by the Louisiana Medical Examiners regarding respondent's license
16 to practice medicine, as set forth above, constitutes unprofessional conduct within the meaning of
17 sections 141 and 2305 of the Code. Therefore, cause for discipline exists.

18 **PRAYER**

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

21 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 73317
22 issued to respondent, James Whitton Lowe, M.D.;

23 2. Ordering respondent to pay the Medical Board of California the costs of probation
24 monitoring upon order of the Board;

25 3. Revoking, suspending or denying approval of the respondent's authority to supervise
26 physician assistants; and,

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4. Taking such other and further action as the Board deems necessary and proper.

DATED: July 15, 2009



BARBARA JOHNSTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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