

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LAWRENCE MERCER
Deputy Attorney General
4 State Bar No. 111898
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5539
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 12-2013-233104
OAH No. 2015020418

11 **PAUL LOFTUS, M.D.**
12 100 S. Newport Drive
13 Napa, CA 94559

DEFAULT DECISION AND ORDER

14 Physician's and Surgeon's Certificate No. C33393

15 Respondent.
16

17
18 **FINDINGS OF FACT**

19 1. On March 19, 2015, Complainant Kimberly Kirchmeyer, solely in her official
20 capacity as Executive Director of the Medical Board of California, filed Accusation No. 12-2013-
21 233104 against Paul Loftus, M.D. (Respondent)

22 2. On June 14, 1971, the Medical Board of California issued Physician's and
23 Surgeon's Certificate No. C33393 to Paul Loftus, M.D. On March 2, 2015, an Interim
24 Suspension Order was issued against said certificate and it is currently suspended. Said
25 certificate expired on March 31, 2015, and is currently delinquent. Unless renewed, it will be
26 cancelled on March 31, 2020.

27 //
28

1 3. On June 20, 2013, the Board received a consumer complaint regarding
2 Respondent, which complaint stated that Respondent was mentally impaired following a
3 cerebrovascular accident.

4 4. On August 27, 2014, an investigator for the Board requested that Respondent
5 submit to a neurologic evaluation.

6 5. On November 4, 2014, a neurologic evaluation of Respondent was performed by a
7 neurocritical care and stroke expert. The expert conducted a full neurologic examination and
8 reviewed Respondent's medical records, after which he concluded that Respondent had deficits in
9 regard to new memory. The expert opined that Respondent's continued medical practice posed a
10 risk of harm to patients by reason of his memory deficits. The Declaration of David Palestrant,
11 M.D., and attachments thereto, are contained in the Exhibit Package¹ and marked as **Exhibit 1**.

12 6. On March 2, 2015, Complainant petitioned for an Interim Suspension Order,
13 which was granted and became effective as of that date.

14 7. On March 19, 2015, Complainant filed an Accusation in which it was charged that
15 Respondent was unable to practice medicine safely due to a mental illness or physical illness
16 affecting competency. The Accusation was served upon Respondent's address of record, and
17 included a Statement to Respondent that he was required to complete and return his Notice of
18 Defense if he wanted to demand a hearing on the charges. Respondent did not claim the certified
19 mail copy. A copy of the Accusation is contained in the supporting exhibits as **Exhibit 2**.

20 8. On April 7, 2015, counsel for Complainant served a Courtesy Notice of Default
21 upon Respondent at his address of record. The Notice of Default provided Respondent with a
22 copy of the Accusation, the Statement to Respondent and a Notice of Defense, and advised him
23 that he was in default. A copy of the Notice of Default and accompanying documents is
24 contained in the exhibit package and marked as **Exhibit 3**.

25 //

26 _____
27 ¹ The evidence in support of this Default Decision and Order is submitted herewith as the
28 "Exhibit Package."

1 //

2 9. The notice further advised Respondent that he could return the Notice of Defense
3 and/or contact Complainant's counsel to obtain relief from default. On April 10, 2015, the
4 certified mail copy was delivered to Respondent. A copy of the United States Postal Service
5 tracking report, together with Respondent's signed return receipt, are attached and collectively
6 marked as **Exhibit 4**.

7 10. Despite actual notice that he is in default in the disciplinary action against him,
8 Respondent has not taken any action to seek relief from default.

9 **STATUTORY AUTHORITY**

10 11. Section 820 of the Code provides as follows:

11 "Whenever it appears that any person holding a license, certificate or permit under
12 this division or under any initiative act referred to in this division may be unable to practice his or
13 her profession safely because the licentiate's ability to practice is impaired due to mental illness,
14 or physical illness affecting competency, the licensing agency may order the licentiate to be
15 examined by one or more physicians and surgeons or psychologists designated by the agency.
16 The report of the examiners shall be made available to the licentiate and may be received as direct
17 evidence in proceedings conducted pursuant to Section 822."

18 12. Section 822 of the Code provides that if the Board determines that a licensee's
19 ability to practice his profession safely is impaired because the licensee is mentally ill, or
20 physically ill affecting competency, the licensing agency may take action by revoking or
21 suspending the license, placing the licensee on probation, or taking such other action as the
22 licensing agency in its discretion deems proper.

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

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

28 //

ORDER

IT IS ORDERED that Physician's and Surgeon's Certificate No. C33393, heretofore issued to Respondent Paul Loftus, M.D., 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.

This Decision shall become effective on June 4, 2015.

It is so ORDERED May 5, 2015


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

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 19 20 15
BY D. Richards ANALYST

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LAWRENCE MERCER
Deputy Attorney General
4 State Bar No. 111898
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5539
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11 **PAUL LOFTUS, M.D.**
12 100 S. Newport Drive
13 Napa, CA 94559
14 Physician's and Surgeon's Certificate No. C33393
15 Respondent.

Case No. 12-2013-233104
OAH No. 2015020418

ACCUSATION

16
17
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.
23 2. On or about June 14, 1971, the Medical Board of California issued Physician's and
24 Surgeon's Certificate Number C33393 to Paul Loftus, M.D. (Respondent). On March 2, 2015, an
25 Interim Suspension Order was issued against the certificate and it is currently suspended. Unless
26 renewed, the certificate will expire on March 31, 2015.

27 //
28 //

1 9. The Board obtained the relevant medical records and interviewed Respondent, after
2 which Respondent voluntarily underwent a neurological evaluation.

3 10. On November 4, 2014, Respondent was examined by David Palestrant, M.D., a
4 neurocritical care and stroke expert. Dr. Palestrant has been an attending neurologist and has
5 held the title of Director for Neurocritical Care and Stroke Care at Eden Hospital and at Cedars-
6 Sinai Medical Center. He currently practices at Cedars-Sinai, Marin General and Kentfield
7 Rehab and Specialty Hospital. He is board-certified in critical care medicine, neurology, vascular
8 neurology and neurocritical care. Dr. Palestrant is a member of the American Academy of
9 Neurology, Neurocritical Care Society and the Society of Critical Care Medicine.
10

11 11. Dr. Palestrant reviewed the medical records released by Respondent. He also took a
12 complete history of Respondent's stroke and stroke aphasia and administered testing to evaluate
13 Respondent's mental status, including the Montreal Cognitive Assessment and Mental Status
14 Examination for Dementia.

15 12. In his report, dated December 16, 2014, Dr. Palestrant advised that Respondent
16 demonstrated deficits in regards to new memory, with testing in these areas being abnormal and
17 noticeably different to his high scores in other mental status faculties. Dr. Palestrant further
18 advised that, even though Dr. Loftus' overall scores fell within the normal range for his age, these
19 scores would be expected to be higher given his life-time intellectual attainment.
20

21 13. On March 2, 2015, Complainant petitioned for and was granted an Interim
22 Suspension Order, precluding Respondent from practicing medicine until after a hearing and
23 decision on an Accusation filed pursuant to Business and Professions Code section 822.
24

25 //

26 //

27 //

28

1
2
3 **CAUSE FOR DISCIPLINARY ACTION**

4 (Mental/Physical Impairment)

5 14. Respondent's Physician and Surgeon's Certificate No. C33393 is subject to
6 disciplinary action pursuant to section 2234 and/or section 822 in that Respondent suffers from a
7 mental illness or physical illness affecting competency, which impairs his ability to practice
8 medicine safely.

9 **PRAYER**

10 WHEREFORE, complainant prays that a hearing be held and that the Board issue an order:

- 11 1. Revoking or suspending physician and surgeon certificate number C33393, issued to
12 Paul Loftus, M.D.;
- 13 2. Prohibiting Paul Loftus, M.D., from supervising Physician Assistants;
- 14 3. Ordering Paul Loftus, M.D., if placed on probation, to pay the costs of probation
15 monitoring.
- 16 4. Taking such other and further action as may be deemed proper and appropriate.

17 DATED: March 19, 2015

18 
19 KIMBERLY KIRCHMEYER
20 Executive Director
21 Medical Board of California
22 Department of Consumer Affairs
23 State of California
24 Complainant

25 SF2015400703
26 41243674.doc