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CENTRAL DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LELAND WHITSON,

Defendant.

CR No. 14-

CR 14 00204

I N F O R M A T I O N

[18 U.S.C. § 1035: False Statement
Affecting a Health Care Program]

The United States Attorney charges:

[18 U.S.C. § 1035]

I. INTRODUCTORY ALLEGATIONS

At all times relevant to this Information:

A. Defendant and Others

1. Defendant LELAND WHITSON ("defendant WHITSON") was a licensed physician who had contracted with Atlantic Recovery Services, later called Atlantic Health Services ("ARS"), to serve as its Medical/Clinical Director.

2. ARS was a private provider of alcohol and drug abuse treatment services, with its business office in Long Beach, California, within the Central District of California. ARS was certified to provide services under the Drug Medi-Cal program,

7/14

1 described below. ARS operated alcohol and drug treatment programs at
2 various high schools and middle schools in Los Angeles County,
3 California, within the Central District of California.

4 3. Defendant WHITSON contracted with ARS from approximately
5 June 1999 to approximately mid-April 2013. Defendant served as ARS'
6 Medical/Clinical Director with respect to all of the schools that ARS
7 serviced in Los Angeles County, except those in the Antelope Valley
8 area.

9 B. The Drug Medi-Cal Program

10 4. The Medi-Cal program ("Medi-Cal") was a health care benefit
11 program, affecting commerce, that provided reimbursement for
12 medically necessary health care services to indigent persons in
13 California. Funding for Medi-Cal was shared between the federal
14 government and the State of California. Medi-Cal was administered by
15 the California Department of Health Care Services ("DHCS").

16 5. The Drug Medi-Cal program was a program within Medi-Cal
17 that paid for medically necessary alcohol and drug treatment to
18 California's Medi-Cal eligible population. DHCS administered the
19 Drug Medi-Cal program by providing funds to the California Department
20 of Alcohol and Drug Programs ("ADP"), which in turn utilized county
21 alcohol and drug programs ("County ADPs"), including the Los Angeles
22 County Department of Public Health, Substance Abuse Prevention and
23 Control, to provide the eligible drug treatment services. The County
24 ADPs entered into contracts with private service providers (like ARS)
25 to provide treatment, recovery, and prevention services for eligible
26 patients.

27 6. Medi-Cal covered outpatient substance abuse services only
28 when such services were medically necessary, prescribed by a

1 physician, and provided in accordance with utilization controls and
2 regulatory requirements set forth in Title 22 of the California Code
3 of Regulations ("CCR").

4 7. Among other things, the CCR required that the provider: (1)
5 develop and use criteria and procedures for the admission of
6 beneficiaries to treatment; (2) complete a personal, medical, and
7 substance abuse history for each beneficiary upon admission to
8 treatment; and (3) complete an assessment of the physical condition
9 of the beneficiary within thirty (30) calendar days of the admission
10 to treatment.

11 8. Drug Medi-Cal providers were also required to have a
12 treatment plan for each beneficiary that was (a) completed and signed
13 by the primary counselor assigned to the beneficiary within 30 days
14 of the beneficiary's admission to treatment, and (b) reviewed,
15 approved, and signed by a physician within 15 days of the counselor's
16 signature. Counselors were required to review and sign updated
17 treatment plans at least every 90 days thereafter, and those updated
18 treatment plans had to be signed by a physician or psychologist
19 within 15 days of signature by the counselor.

20 9. To qualify for Drug Medi-Cal reimbursement, outpatient
21 group counseling had to be conducted in groups with no fewer than
22 four and no more than ten patients (only one of whom had to be a
23 Medi-Cal beneficiary). "Group counseling" meant face-to-face
24 contacts in which one or more therapists or counselors treat two or
25 more patients at the same time, focusing on the needs of the
26 individuals served.

27 10. To receive payment for substance abuse treatment services
28 provided, Drug Medi-Cal providers submitted claims to the County ADP

1 reporting, among other things, the dates, units, and types of
2 services (e.g., group or individual counseling) provided to each
3 Medi-Cal beneficiary. To constitute one unit of group or individual
4 counseling, the counseling session had to last 90 minutes (1.5
5 hours).

6 11. To support its claims for payment, each Drug Medi-Cal
7 provider was required to establish and maintain for at least three
8 years an individual patient record for each beneficiary containing
9 the following documentation: evidence that the beneficiary met the
10 admission criteria for Drug Medi-Cal services; treatment plans;
11 progress notes; evidence that the beneficiary received counseling;
12 justification for continuing services; discharge summary; evidence of
13 compliance with requirements for the specific treatment service; and
14 records substantiating the services for which claims for payment were
15 submitted.

16 **II. THE SCHEME TO CONCEAL A MATERIAL FACT**

17 12. From in or about June 1999 to mid-April 2013, in Los
18 Angeles County, within the Central District of California, and
19 elsewhere, in a matter involving a health care benefit program,
20 specifically Medi-Cal, and in connection with the delivery of and
21 payment for a health care benefit, item, and service, specifically
22 substance abuse treatment services, defendant WHITSON knowingly and
23 willfully falsified, concealed, and covered up, by way of a trick,
24 scheme, or device, a material fact, and knowingly and willfully made
25 and used a materially false, fictitious, and fraudulent statement and
26 entry.

27 13. Specifically, defendant WHITSON knowingly and willfully
28 participated in a scheme to conceal the fact that ARS was enrolling

1 students in its substance abuse counseling program without regard for
2 the students' medical necessity for alcohol or drug treatment. This
3 fact was material to Medi-Cal's payment decision for the provision of
4 Drug Medi-Cal services.

5 III. THE MANNER AND MEANS OF THE SCHEME

6 14. The scheme to conceal operated, in substance, in the
7 following manner:

8 a. ARS counselors would prepare intake assessment notes,
9 health questionnaires, and treatment plans for students seeking to
10 enroll in ARS' substance abuse counseling program. The treatment
11 plans, among other things, indicated a diagnosis of alcohol or
12 substance abuse disorder or addiction.

13 b. Defendant WHITSON would review the intake assessment
14 notes, health questionnaires, and treatment plans for those students.

15 c. Defendant WHITSON would sign treatment plans for
16 students whether or not their records demonstrated medical necessity
17 for alcohol or drug treatment, including for students whose records
18 indicated that the students had only occasionally used alcohol or
19 drugs or had not used alcohol or drugs recently.

20 d. In signing the treatment plans, defendant WHITSON
21 would confirm that there was medical necessity for substance abuse
22 counseling in accordance with Title 22, California Code of
23 Regulations, Sections 51341.1(h)(1)(D)(i) and 51303, whether or not
24 that was the case.

25 e. ARS would use the treatment plans signed by defendant
26 WHITSON to support the enrollment of students in the ARS substance
27 abuse counseling program whether or not the students medically needed
28 such services.

1 f. ARS would submit false and fraudulent claims for
2 substance abuse counseling services to the Drug Medi-Cal program.

3 g. Medi-Cal would pay the false and fraudulent claims,
4 and ARS would receive reimbursement on those claims from the County
5 ADP.

6 15. As a direct and intended result of defendant WHITSON's
7 participation in the scheme, ARS submitted to the Drug Medi-Cal
8 program false and fraudulent claims totaling approximately
9 \$50,215,843.00 for purported group and individual substance abuse
10 counseling of students at various schools in Los Angeles County, and
11 Medi-Cal paid ARS approximately \$46,280,502.00 for those claims.

12 IV. EXECUTION OF THE SCHEME TO CONCEAL

13 16. In or about January 2012, defendant WHITSON signed a
14 treatment plan for student E.O. that contained a false statement that
15 E.O. had a diagnosis of alcohol abuse, when in fact, as defendant
16 WHITSON then well knew, E.O.'s records indicated that E.O. had not
17 recently used alcohol and did not have an alcohol abuse disorder
18 requiring treatment. In signing the treatment plan, defendant

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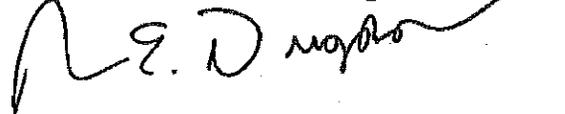
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1 WHITSON falsely confirmed that E.O. had a medical need for substance
2 abuse counseling in accordance with Title 22, California Code of
3 Regulations, Sections 51341.1(h)(1)(D)(i) and 51303.

4
5 ANDRÉ BIROTTE JR.
United States Attorney

6 
7

8 ROBERT E. DUGDALE
Assistant United States Attorney
9 Chief, Criminal Division

10 RICHARD E. ROBINSON
Assistant United States Attorney
11 Chief, Major Frauds Section

12 CONSUELO S. WOODHEAD
Assistant United States Attorney
13 Deputy Chief, Major Frauds Section

14 CATHY J. OSTILLER
Assistant United States Attorney
15 Major Frauds Section

WESTERN,RELATED-G

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Western Division - Los Angeles)
CRIMINAL DOCKET FOR CASE #: 2:14-cr-00204-PSG All Defendants**

Case title: USA v. Whitson

Date Filed: 04/08/2014

Assigned to: Judge Philip S. Gutierrez

Defendant (1)

Leland Whitson

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ATTORNEY TO BE NOTICED

Pending Counts

18:1035 FALSE STATEMENT
AFFECTING A HEALTH CARE
PROGRAM
(1)

Disposition

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

Plaintiff

USA

represented by **Cathy J Ostiller**

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TERMINATED: 09/09/2016
Designation: Assistant US Attorney

Date Filed	#	Docket Text
04/08/2014	<u>1</u>	INFORMATION filed as to Leland Whitson (1) count(s) 1. Offense occurred in LA. (ja) (Entered: 04/17/2014)
04/08/2014	<u>2</u>	GOVERNMENT'S REQUEST FOR ISSUANCE OF SUMMONS ON INFORMATION Filed by Plaintiff USA as to Defendant Leland Whitson(ja) (Entered: 04/17/2014)
04/08/2014	<u>3</u>	CASE SUMMARY filed by AUSA Consuelos S Woodhead and Cathry J Ostiller as to Defendant Leland Whitson; defendant's Year of Birth: 1940 (ja) (Entered: 04/17/2014)
04/08/2014	<u>4</u>	MEMORANDUM filed by Plaintiff USA as to Defendant Leland Whitson in regards to the following Magistrate Judges: Jacqueline Chooljian, Patrick J. Walsh, Sheri Pym, Michael Wilner, Alka Sagar, Jean Rosenbluth, Douglas McCormick (ja) (Entered: 04/17/2014)
04/08/2014	<u>5</u>	MEMORANDUM filed by Plaintiff USA as to Defendant Leland Whitson. This criminal action, being filed on 4/8/14, was not pending in the U. S. Attorneys Office before the date on which Judge Michael W. Fitzgerald, and Judge Beverly Reid O'Connell began receiving criminal matters. (ja) (Entered: 04/17/2014)
04/08/2014	<u>6</u>	NOTICE of Related Case(s) filed by Plaintiff USA as to Defendant Leland Whitson Related Case(s): CR 13-485, USA v Cindy Leticia Ortiz (ja) (Entered: 04/17/2014)
04/14/2014	<u>7</u>	ORDER by Judge Michael W. Fitzgerald <u>2</u> as to Leland Whitson (1) (ja) (Entered: 04/17/2014)
04/14/2014	<u>8</u>	SEALED DOCUMENT - UNDER SEAL DOCUMENT (ja) (Entered: 04/17/2014)
04/14/2014	<u>9</u>	SEALED DOCUMENT - UNDER SEAL DOCUMENT (ja) (Entered: 04/17/2014)
04/14/2014	<u>10</u>	SEALED DOCUMENT - UNDER SEAL DOCUMENT (ja) (Entered: 04/17/2014)

04/23/2014	<u>11</u>	Notice of Appearance or Withdrawal of Counsel: for attorney Harleen Kaur counsel for Defendant Leland Whitson. Adding Harleen Kaur as attorney as counsel of record for Leland Whitson for the reason indicated in the G-123 Notice. Filed by Defendant Leland Whitson. (Attorney Harleen Kaur added to party Leland Whitson(pty:dft))(Kaur, Harleen) (Entered: 04/23/2014)
04/23/2014	<u>12</u>	First APPLICATION OF NON-RESIDENT ATTORNEY Paul L. Knight to Appear Pro Hac Vice as to Defendant Leland Whitson (PHV Fee of \$ 325 receipt number 0973-13710729 paid.) Filed by Defendant Leland Whitson (Attachments: # <u>1</u> Proposed Order)(Kaur, Harleen) (Entered: 04/23/2014)
04/24/2014	<u>13</u>	ORDER by Magistrate Judge Frederick F. Mumm: granting <u>12</u> Application to Appear Pro Hac Vice for Attorney Paul L Knight for Leland Whitson. as to Leland Whitson (1) (mhe) (Entered: 04/29/2014).
04/29/2014	<u>14</u>	Summons Returned Executed on 4/29/14 as to Leland Whitson (mhe) (Entered: 05/01/2014)
04/29/2014	<u>15</u>	MINUTES OF ARREST ON INDICTMENT HEARING held before Magistrate Judge Jacqueline Chooljian as to Defendant Leland Whitson. Defendant states true name as charged. Court orders bail set as: Leland Whitson (1) \$25,000 Appearance Bond, see attached bond for terms and conditions. Defendant remanded to the custody of the USM. PIA held, see separate minutes. Court Reporter: Kathy Stride. (mhe) (Entered: 05/02/2014)
04/29/2014	<u>16</u>	STATEMENT OF CONSTITUTIONAL RIGHTS filed by Defendant Leland Whitson (mhe) (Entered: 05/02/2014)
04/29/2014	<u>17</u>	WAIVER OF INDICTMENT by Defendant Leland Whitson before Magistrate Judge Jacqueline Chooljian (mhe) (Entered: 05/02/2014)
04/29/2014	<u>18</u>	BOND AND CONDITIONS OF RELEASE filed as to Defendant Leland Whitson conditions of release: \$25,000 Apperance Bond, see attached bond for terms and conditions approved by Magistrate Judge Jacqueline Chooljian. (mhe) (Entered: 05/02/2014)
04/29/2014	<u>19</u>	MINUTES OF POST-INDICTMENT ARRAIGNMENT: held before Magistrate Judge Jacqueline Chooljian as to Defendant Leland Whitson (1) Count 1. Defendant arraigned, states true name: As charged. Attorney: Harleen Kaur, Retained present. Case assigned to Judge Michael W. Fitzgerald. Counsel are ordered to contact the court clerk regarding the setting of dates for the guilty plea and all further proceedings. Court Reporter: Katherine Stride. (tba) (Entered: 05/02/2014)
05/07/2014	<u>20</u>	ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 08-05 -Related Case- filed. Related Case No: LACR 13-485 PSG. Case, as to Defendant Leland Whitson, transferred from Judge Michael W. Fitzgerald to Judge Philip S. Gutierrez for all further proceedings. The case number will now reflect the initials of the transferee Judge LACR 14-204 PSG. Signed by Judge Philip S. Gutierrez (esa) (Entered: 05/07/2014)
05/07/2014	<u>21</u>	TEXT ONLY ENTRY IN CHAMBERS by Judge Philip S. Gutierrez as to Defendant Leland Whitson: A Change of Plea Hearing is hereby set for 6/2/2014

		at 9:30am. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY.(wm) TEXT ONLY ENTRY (Entered: 05/07/2014)
06/02/2014	<u>22</u>	MINUTES OF Change of Plea Hearing held before Judge Philip S. Gutierrez as to Defendant Leland Whitson. Defendant sworn. Court questions defendant regarding the plea. The Defendant Leland Whitson (1) pleads GUILTY to Count 1 of the Information. The plea is accepted. The Court ORDERS the preparation of a Presentence Report. Sentencing set for 1/12/2015 at 10:00 AM before Judge Philip S. Gutierrez. Based on the government's agreement, the nature of the charges, the fact that the defendant has made all his/her appearances, and the likely sentence range, the Court finds it appropriate to allow the defendant to remain on bond. Court Reporter: Marea Woolrich. (lw) (Entered: 06/02/2014)
12/03/2014	<u>25</u>	NOTICE of Manual Filing of Sealed Documents, Government's Unopposed Sealing Application, and Proposed Sealing Order filed by Plaintiff USA as to Defendant Leland Whitson (Ostiller, Cathy) (Entered: 12/03/2014)
12/04/2014	<u>27</u>	SEALED DOCUMENT (bm) (Entered: 12/09/2014)
12/04/2014	<u>28</u>	SEALED DOCUMENT (bm) (Entered: 12/09/2014)
12/04/2014	<u>29</u>	SEALED DOCUMENT (bm) (Entered: 12/09/2014)
12/04/2014	<u>30</u>	SEALED DOCUMENT (bm) (Entered: 12/09/2014)
12/09/2014	<u>26</u>	NOTICE of Manual Filing of Government's Response to Presentence Report for Defendant Leland Whitson, Government's Ex Parte Sealing Application, and Proposed Sealing Order filed by Plaintiff USA as to Defendant Leland Whitson (Ostiller, Cathy) (Entered: 12/09/2014)
12/11/2014	<u>31</u>	SEALED DOCUMENT (bm) (Entered: 12/12/2014)
12/11/2014	<u>32</u>	SEALED DOCUMENT (bm) (Entered: 12/12/2014)
12/11/2014	<u>33</u>	SEALED DOCUMENT (bm) (Entered: 12/12/2014)
05/26/2015	<u>34</u>	NOTICE of Manual Filing of Sealed Documents, Government's Unopposed Sealing Application, and Proposed Sealing Order filed by Plaintiff USA as to Defendant Leland Whitson (Ostiller, Cathy) (Entered: 05/26/2015)
05/27/2015	<u>35</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 05/28/2015)
05/27/2015	<u>36</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 05/28/2015)
05/27/2015	<u>37</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 05/28/2015)
05/27/2015	<u>38</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 05/28/2015)
12/04/2015	<u>39</u>	NOTICE of Manual Filing of Sealed Documents, Government's Unopposed Sealing Application, and Proposed Sealing Order filed by Plaintiff USA as to Defendant Leland Whitson (Ostiller, Cathy) (Entered: 12/04/2015)

12/07/2015	<u>40</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 12/08/2015)
12/07/2015	<u>41</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 12/08/2015)
12/07/2015	<u>42</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 12/08/2015)
12/07/2015	<u>43</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 12/08/2015)
09/09/2016	<u>44</u>	NOTICE OF APPEARANCE OR REASSIGNMENT of AUSA Paul G Stern on behalf of Plaintiff USA. Filed by Plaintiff USA. (Stern, Paul) (Entered: 09/09/2016)
09/13/2016	<u>45</u>	NOTICE of Manual Filing of Sealed Documents, Government's Unopposed Sealing Application, and Proposed Sealing Order filed by Plaintiff USA as to Defendant Leland Whitson (Ostiller, Cathy) (Entered: 09/13/2016)
09/14/2016	<u>46</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 09/15/2016)
09/14/2016	<u>47</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 09/15/2016)
09/14/2016	<u>48</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 09/15/2016)
09/14/2016	<u>49</u>	SEALED DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (bm) (Entered: 09/15/2016)
11/28/2016	<u>50</u>	NOTICE OF APPEARANCE OR REASSIGNMENT of AUSA Karen Escalante on behalf of Plaintiff USA. Filed by Plaintiff USA. (Escalante, Karen) (Entered: 11/28/2016)
12/09/2016	<u>51</u>	NOTICE TO PARTIES by District Judge Phillip S. Gutierrez. Effective December 19, 2016, Judge Gutierrez will be located at the 1st Street Courthouse, COURTROOM 6A on the 6th floor, located at 350 W. 1st Street, Los Angeles, California 90012. All Court appearances shall be made in Courtroom 6A of the 1st Street Courthouse, and all mandatory chambers copies shall be hand delivered to the judge's mail box outside the Clerk's Office on the 4th floor of the 1st Street Courthouse. The location for filing civil documents in paper format exempted from electronic filing and for viewing case files and other records services remains at the United States Courthouse, 312 North Spring Street, Room G-8, Los Angeles, California 90012. The location for filing criminal documents in paper format exempted from electronic filing remains at Edward R. Roybal Federal Building and U.S. Courthouse, 255 East Temple Street, Room 178, Los Angeles, California 90012. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY.(rrp) TEXT ONLY ENTRY (Entered: 12/09/2016)
06/08/2017	<u>52</u>	

		NOTICE of Manual Filing of EX PARTE APPLICATION, PROPOSED ORDER, UNDERSEAL DOCUMENT filed by Plaintiff USA as to Defendant Leland Whitson (Escalante, Karen) (Entered: 06/08/2017)
06/13/2017	<u>53</u>	[SEALED DOCUMENT]. (jp) (Entered: 06/14/2017)
06/13/2017	<u>54</u>	[SEALED DOCUMENT]. (jp) (Entered: 06/14/2017)
06/13/2017	<u>55</u>	[SEALED DOCUMENT]. (jp) (Entered: 06/14/2017)
06/13/2017	<u>56</u>	[SEALED DOCUMENT]. (jp) (Entered: 06/14/2017)

PACER Service Center			
Transaction Receipt			
01/03/2018 09:21:54			
PACER Login:	di0237:2536794:0	Client Code:	
Description:	Docket Report	Search Criteria:	2:14-cr-00204-PSG End date: 1/3/2018
Billable Pages:	4	Cost:	0.40

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

In the Matter of the Accusation)
Against:)

LELAND G. WHITSON, M.D.)

Case No. 800-2014-006364

Physician's and Surgeon's)
Certificate No. A 22527)

Respondent)

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 15, 2017

IT IS SO ORDERED August 8, 2017 .

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRISTINE R. FRIAR
Deputy Attorney General
4 State Bar No. 228421
California Department of Justice
5 300 South Spring Street, Suite 1702
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6 Telephone: (213) 897-6404
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

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:

Case No. 800-2014-006364

12 LELAND G. WHITSON, M.D.

13 1711 Via El Prado, Suite 201
14 Redondo Beach, CA 90277

15 Physician's and Surgeon's Certificate
No. A 22527,

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Christine R. Friar,
24 Deputy Attorney General.

25 2. Leland G. Whitson, M.D. (Respondent) is representing himself in this proceeding and
26 has chosen not to exercise his right to be represented by counsel.

27 //

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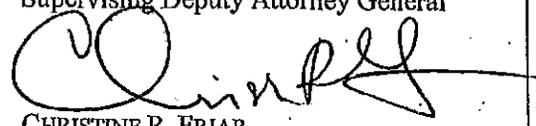
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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 7/31/2017

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General



CHRISTINE R. FRIAR
Deputy Attorney General
Attorneys for Complainant

LA2017504273

Exhibit A

Accusation No. 800-2014-006364

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7 *Attorneys for Complainant*

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:

Case No. 800-2014-006364

12 LELAND G. WHITSON, M.D.

A C C U S A T I O N

13 1711 Via El Prado, Suite 201
14 Redondo Beach, CA 90277

15 Physician's and Surgeon's Certificate
No. A 22527,

16 Respondent.

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 July 1, 1967, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 22527 to Leland G. Whitson, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate expired on June 30, 2016, and has not been renewed.

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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 ",...

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 "...."

7 6. Section 2236 of the Code states:

8 (a) The conviction of any offense substantially related to the qualifications, functions, or
9 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
10 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
11 evidence only of the fact that the conviction occurred.

12 "...."

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

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

17 "For the purposes of denial, suspension or revocation of a license, certificate or permit
18 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
19 considered to be substantially related to the qualifications, functions or duties of a person holding
20 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
21 evidences present or potential unfitness of a person holding a license, certificate or permit to
22 perform the functions authorized by the license, certificate or permit in a manner consistent with
23 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
24 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
25 violation of, or conspiring to violate any provision of the Medical Practice Act."

26 8. Section 2261 of the Code states:

27 "Knowingly making or signing any certificate or other document directly or indirectly
28 related to the practice of medicine or podiatry which falsely represents the existence or

1 nonexistence of a state of facts, constitutes unprofessional conduct."

2 9. Section 810 of the Code states:

3 "(a) It shall constitute unprofessional conduct and grounds for disciplinary action,
4 including suspension or revocation of a license or certificate, for a health care professional to do
5 any of the following in connection with his or her professional activities:

6 "....

7 (2) Knowingly prepare, make, or subscribe any writing, with intent to present
8 or use the same, or to allow it to be presented or used in support of any false or
9 fraudulent claim.

10 "....

11 "(d) As used in this section, health care professional means any person licensed or certified
12 pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the
13 Chiropractic Initiative Act."

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct – Dishonest and Corrupt Acts)**

16 10. Respondent is subject to disciplinary action under Code sections 2234, subdivisions
17 (a) and (e), 2261, and 810 in that he committed dishonest and corrupt acts when he knowingly
18 made false statements related to the practice of medicine. The circumstances are as follows:

19 11. On or about April 8, 2014, in *United States of America v. Leland Whitson*, case
20 number 2:14-cr-00204, in the United States District Court for the Central District of California,
21 an Information was filed against Respondent charging him with one felony count of violating 18
22 U.S.C. section 1035 (false statements relating to health care matters). The Information
23 specifically alleges as follows:

24 A. Between June 1999 and approximately mid-April 2013, Respondent was a
25 licensed physician who had contracted with Atlantic Recovery Services,
26 later called Atlantic Health Services ("ARS"), to serve as its
27 Medical/Clinical Director.

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B. ARS was a private provider of alcohol and drug abuse treatment services, with its business office in Long Beach, California. ARS was certified to provide services under the Drug Medi-Cal program. ARS operated alcohol and drug treatment programs at various high schools and middle schools in Los Angeles County, California.

C. During the relevant time period, the Medi-Cal program ("Medi-Cal") was a health care benefit program that provided reimbursement for medically necessary health care services to indigent persons in California. The Drug Medi-Cal program was a program within Medi-Cal that paid for medically necessary alcohol and drug treatment to California's Medi-Cal eligible population. Medi-Cal covered outpatient substance abuse services only when such services were medically necessary, prescribed by a physician, and provided in accordance with utilization controls and regulatory requirements set forth in Title 22 of the California Code of Regulations.

D. While serving as the Medical/Clinical Director of ARS and in a matter involving a health care benefit program, specifically Medi-Cal, and in connection with the delivery of and payment for a health care benefit, specifically substance abuse treatment services, Respondent knowingly and willfully falsified, concealed, and covered up, by way of trick, scheme, or device, a material fact, and knowingly and willfully made and used a materially false, fictitious, and fraudulent statement and entry.

E. More specifically, Respondent knowingly and willfully participated in a scheme to conceal the fact that ARS was enrolling students in its substance abuse counseling program without regard for the students' medical necessity in its substance abuse counseling program and without regard for the students' medical necessity for alcohol and drug treatment. This fact was material to Medi-Cal's payment decision for the provision of Drug Medi-Cal services.

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- F. During the relevant time period, ARS counselors would prepare intake assessment notes, health questionnaires, and treatment plans for students seeking to enroll in ARS' substance abuse counseling program. The treatment, among other things, indicated a diagnosis of alcohol or substance abuse disorder or addiction.
- G. Respondent reviewed the ARS's counselors' intake assessment notes, health questionnaires, and treatment plans for the students.
- H. Respondent signed treatment plans for students whether or not their records demonstrated a medical necessity for alcohol and drug treatment, including for students whose records indicated that the student had only occasionally used alcohol or drugs or had not used alcohol or drugs recently.
- I. In signing each treatment plan, Respondent confirmed that there was a medical necessity for substance abuse counseling in accordance with Title 22, California Code of Regulations, sections 51341.1(h)(1)(D)(i) and 51303, whether or not that was the case.
- J. ARS used the treatment plans signed by Respondent to support the enrollment of students in the ARS substance abuse counseling program whether or not the students medically needed such services.
- K. ARS would then submit false and fraudulent claims for substance abuse counseling services to the Drug Medi-Cal program.
- L. Medi-Cal would pay the false and fraudulent claims, and ARS would receive reimbursement on those claims.
- M. As a direct and intended result of Respondent's participation in the scheme, ARS submitted to the Drug Medi-Cal program false and fraudulent claims totaling approximately \$50 million for purported group and individual substance abuse counseling of students at various schools in Los Angeles County. Medi-Cal paid ARS approximately \$46 million for those claims.

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1 N. In or about January 2012, Respondent signed a treatment plan for student
2 E.O. that contained a false statement that E.O. had a diagnosis of alcohol
3 abuse, when in fact, as Respondent then well knew, E.O.'s records
4 indicated that E.O. had not recently used alcohol and did not have an
5 alcohol abuse disorder requiring treatment. In signing the treatment plan,
6 Respondent falsely confirmed that E.O. had a medical need for substance
7 abuse counseling in accordance with Title 22, California Code of
8 Regulations, sections 51341.1(h)(1)(D)(i) and 51303.

9 12. On June 2, 2014, a Change of Plea Hearing was held in *United States of America v.*
10 *Leland Whitson*, case number 2:14-cr-00204. Respondent pleaded guilty to one felony count of
11 making a false statement affecting a health care program, in violation of 18 U.S.C. section 1035.
12 The plea was accepted by the Court.

13 13. Respondent's acts and/or omissions as set forth in paragraphs 11 and 12 above,
14 whether proven individually, jointly, or in any combination thereof, constitute unprofessional
15 conduct pursuant to sections 2234, subdivisions (a) and (e), 2261, and 810 of the Code.
16 Accordingly, Respondent has subjected his Physician's and Surgeon's Certificate to discipline.

17 **SECOND CAUSE FOR DISCIPLINE**
18 **(Unprofessional Conduct – Conviction)**

19 14. Respondent is subject to disciplinary action under Code sections 2234, subdivision
20 (a), and 2236, subdivisions (a) and (d), and California Code of Regulations, title 16, section 1360
21 in that he pled guilty to an offense (violating 18 U.S.C. section 1035 - false statements relating to
22 health care matters) substantially related to the qualifications, functions, or duties of a physician
23 and surgeon. The circumstances are as follows:

24 15. The allegations contained in paragraphs 11 and 12 are incorporated by reference
25 herein.

26 16. Respondent's acts and/or omissions as set forth in paragraphs 11 and 12 above,
27 whether proven individually, jointly, or in any combination thereof, constitute unprofessional
28 conduct pursuant to 2234, subdivision (a), and 2236, subdivisions (a) and (d), and California

1 Code of Regulations, title 16, section 1360. Accordingly, Respondent has subjected his
2 Physician's and Surgeon's Certificate to discipline.

3 **DISCIPLINARY CONSIDERATIONS**

4 17. To determine the degree of discipline, if any, to be imposed on Respondent,
5 Complainant alleges that on July 19, 1978, in a prior action entitled *In the Matter of the*
6 *Accusation Against: Leland Whitson M.D.*, Case No. D-1941, before the Board of Medical
7 Quality Assurance of California (now, the Board), Respondent's license was disciplined based on
8 findings that during the period from November 1975 through March 1976, Respondent was under
9 the influence of alcohol while on duty at Valley Presbyterian Hospital in Van Nuys, California. It
10 was further found that, on numerous occasions, Respondent was not available when hospital
11 personnel attempted to contact him concerning his patients, failed to go to the hospital to
12 ascertain the condition of his patients, and discharged patients by telephone without having
13 examined said patients prior to discharge. Respondent's use of alcohol was found to be placing
14 his patients and the public in danger. An order of license revocation issued, but was stayed, and a
15 ten-year period of probation was imposed with multiple terms and conditions. That decision is
16 now final and is incorporated by reference as if fully set forth herein.

17 18. Complainant further alleges that on May 15, 1980, in another action entitled *In the*
18 *Matter of the Petition to Revoke Probation Against: Leland G. Whitson, M.D.*, Case No. D-2378,
19 before the Board of Medical Quality Assurance of California, Respondent was found to have
20 violated the terms and conditions of his probation. Specifically, Respondent, in violation of his
21 probation, engaged in solo practice and failed to submit to the Board, and receive its prior
22 approval, for a plan of practice limited to a supervised, structured environment in which he would
23 be supervised by another physician. Respondent also tested positive for alcohol use in violation
24 of a term of his probation requiring that he abstain completely from the use of alcoholic
25 beverages. Respondent was also found to have failed to participate in psychotherapy as required
26 by the terms of his probation. Additionally, Respondent failed to submit quarterly reports to the
27 Board attesting to his compliance with the terms of his probation. An order of license revocation
28 issued, but was stayed, and a ten-year period of probation, set to commence on June 16, 1980,

1 was imposed with multiple terms and conditions. Respondent's license was also suspended for
2 270 days. That decision is now final and is incorporated by reference as if fully set forth herein.

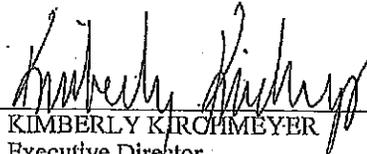
3 19. Complainant further alleges that on April 29, 2014, an Order was issued in *United*
4 *States of America v. Leland Whitson*, case number 2:14-cr-00204, in the United States District
5 Court for the Central District of California, making it a condition of Respondent's bail that
6 Respondent will not be involved in substance abuse treatment for Medicare, Medi-Cal, or other
7 federal health insurance program patients, including billing for such treatment with the exception
8 of voluntary substance abuse counseling and consultation.

9 PRAYER

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

- 12 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 22527,
13 issued to Leland G. Whitson, M.D.;
- 14 2. Prohibiting him from supervising physician assistants and advanced practice nurses;
- 15 3. If placed on probation, ordering him to pay the Board the cost of probation
16 monitoring; and
- 17 4. Taking such other and further action as deemed necessary and proper.

18
19 DATED: June 29, 2017


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

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