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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. 800-2014-003823

12 UCHE AUSTINE CHUKWUDI, M.D.

13 15425 Crenshaw Blvd.,
14 Gardena, CA 90249

**DEFAULT DECISION
AND ORDER**

15 Physician's and Surgeon's Certificate No. A
16 105496,

[Gov. Code, §11520]

17 Respondent.

18 FINDINGS OF FACT

19 1. On November 23, 2016, Complainant Kimberly Kirchmeyer, in her official capacity
20 as the Executive Director of the Medical Board of California, filed Accusation No. 800-2014-
21 003823 against Uche Austine Chukwudi, M.D. (Respondent) before the Medical Board of
22 California (Board).

23 2. On September 10, 2008, the Board issued Physician's and Surgeon's Certificate No. A
24 105496 to Respondent. The Physician's and Surgeon's Certificate expired on March 31, 2016,
25 and has not been renewed.

26 3. On November 23, 2016, Michelle Solario, an employee of the Complainant Agency,
27 served by Certified Mail a copy of the Accusation No. 800-2014-003823, Statement to
28 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,

1 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 15425
2 Crenshaw Blvd., Gardena, CA 90249. A copy of the Accusation, the related documents, and
3 Declaration of Service are attached as exhibit A, and are incorporated herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c). On or about December 7, 2016, the
6 aforementioned documents were returned by the U.S. Postal Service marked "Return to Sender,
7 Insufficient Address, Unable to Forward." A copy of the envelope returned by the post office is
8 attached as exhibit B, and is incorporated herein by reference. Business and Professions Code
9 section 118 states, in pertinent part:

10 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
11 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
12 order of a court of law, or its surrender without the written consent of the board, shall not, during
13 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
14 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
15 provided by law or to enter an order suspending or revoking the license or otherwise taking
16 disciplinary action against the license on any such ground."

17 5. Government Code section 11506 states, in pertinent part:

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

22 Respondent failed to file a Notice of Defense within 15 days after service upon him of the
23 Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 800-
24 2014-003823.

25 6. California Government Code section 11520 states, in pertinent part:

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

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STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Nov. 23 2016
BY [Signature] ANALYST

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

11 In the Matter of the Accusation Against:

Case No. 800-2014-003823

12 **UCHE AUSTINE CHUKWUDI, M.D.**
13 15425 Crenshaw Boulevard
14 Gardena, California 90249

ACCUSATION

15 Physician's and Surgeon's Certificate No. A
105496,

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

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

22 2. On or about September 10, 2008, the Board issued Physician's and Surgeon's
23 Certificate No. A105496 to Uche Austine Chukwudi, M.D. ("Respondent/Chukwudi"). The
24 Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought
25 herein and expired on March 31, 2016.

26 JURISDICTION

27 3. This Accusation is brought before the Board under the authority of the following
28 sections of the Business and Professions Code (Code), Government Code unless otherwise

1 indicated.

2 4. Section 2004 of the Code states:

3 "The Board shall have the responsibility for the following:

4 "(a) The enforcement of the disciplinary and criminal provisions of the Medical
5 Practice Act.

6 "(b) The administration and hearing of disciplinary actions.

7 "(c) Carrying out disciplinary actions appropriate to findings made by a medical
8 quality review committee, the division, or an administrative law judge.

9 "(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of
10 disciplinary actions.

11 "(e) Reviewing the quality of medical practice carried out by physician and surgeon
12 certificate holders under the jurisdiction of the board."

13 5. 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,
16 but is not 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
22 departure from the applicable standard of care shall constitute repeated negligent acts.

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

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

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially

1 related to the qualifications, functions, or duties of a physician and surgeon.

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

3 FEDERAL STATUTES

4 6. Title 18, United States Code, Section 2(b) states:

5 "Whoever willfully causes an act to be done which if directly performed by him or
6 another would be an offense against the United States, is punishable as a principal."

7 7. Title 18, United States Code, Section 1347 states:

8 "(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or
9 artifice—

10 "(1) to defraud any health care benefit program; or

11 "(2) to obtain, by means of false or fraudulent pretenses, representations, or
12 promises, any of the money or property owned by, or under the custody or control
13 of, any health care benefit program, in connection with the delivery of or payment
14 for health care benefits, items, or services, shall be fined under this title or
15 imprisoned not more than 10 years, or both. If the violation results in serious
16 bodily injury (as defined in section 1365 of this title), such person shall be fined
17 under this title or imprisoned not more than 20 years, or both; and if the violation
18 results in death, such person shall be fined under this title, or imprisoned for any
19 term of years or for life, or both.

20 "(b) With respect to violations of this section, a person need not have actual knowledge of
21 this section or specific intent to commit a violation of this section."

22 8. Title 18, United States Code, Section 1349 states:

23 "Any person who attempts or conspires to commit any offense under this chapter shall be
24 subject to the same penalties as those prescribed for the offense, the commission of which
25 was the object of the attempt or conspiracy."

26 FIRST CAUSE FOR DISCIPLINE

27 (Commission of Acts Involving Dishonesty or Corruption)

28 9. Respondent has committed acts involving dishonesty or corruption, which are
substantially related to the qualifications, functions, or duties of a physician and surgeon.

Respondent is subject to disciplinary action under section 2234, subdivision (e), of the Code, in
that after he was indicted by the grand jury in federal court and charged with violating federal
statutes that are substantially related to the qualifications, functions, or duties of a physician and
surgeon, he forfeited bail and failed to appear at his criminal trial that commenced on September

1 9, 2014. Respondent remains a fugitive at large. The circumstances are as follows:

2 SECOND SUPERSEDING INDICTMENT

3 10. On or about December 19, 2013, in the United States District Court for the Central
4 District of California, a Second Superseding Indictment was filed in the case entitled *United*
5 *States of America v. Uche Chukwudi et al.*, case number CR-12-01170(B)-MWF. The Grand Jury
6 charged Respondent with one count of conspiracy to engage in health care fraud in violation of
7 Title 18, United States Code, Section 1349, a felony, and six counts of felony health care fraud in
8 violation of 18 United States Code, Sections 1347 and 2(b), as follows:

9 *(Count One - 18 U.S.C. § 1349: Conspiracy to Commit Health Care Fraud)*

10 11. Chukwudi, a licensed physician and enrolled Medicare provider, between in or
11 about June 2010 and in or about October 2011, referred more than 200 Medicare beneficiaries to
12 Adelco Medical Distributors, Inc. ("Adelco") for durable medical equipment ("DME"), primarily
13 power wheelchairs ("PWCs") from his medical clinic, located at 15425 Crenshaw Boulevard in
14 Gardena, California. Chukwudi also billed Medicare for services he allegedly provided to those
15 beneficiaries, in violation of Title 18, United States Code, Section 1349. Between in or about
16 January 2007 and in or about December 2011, Adelco submitted approximately \$7,350,695 in
17 claims to Medicare, primarily for PWCs, for which Medicare paid Adelco approximately
18 \$3,452,299, representing more than approximately 90% of Adelco's revenue during the period.
19 Of the claims Adelco submitted to Medicare, approximately \$1,185,464 were for patients referred
20 by Chukwudi, for which Medicare paid Adelco approximately \$539,254. In or about June 2010
21 to in or about October 2011, together with others known and unknown to the Grand Jury,
22 Chukwudi knowingly combined, conspired, and agreed to commit health care fraud, in violation
23 of Title 18, United States Code, Section 1347.

24 The Manner and Means of the Conspiracy

25 12. At the instruction of codefendant Adeline Ekwebelem ("Ekwebelem"),
26 codefendants Romie Porter Tucker, Jr. ("Tucker"), Maritza Hernandez ("Hernandez") and Cindy
27 Santana ("Santana") would take the beneficiaries to see doctors, including defendant Chukwudi,
28 chosen by codefendant Ekwebelem and then take the beneficiaries to Adelco, where the

1 beneficiaries provided their Health Identification Card numbers (HICNs) and other patient
2 information to Adelco. For these beneficiaries, defendant Chukwudi would create fraudulent
3 patient files that included PWC prescriptions and false statements in face-to-face examination
4 forms ("FTF forms") purporting to support the medical need for the DME, even though
5 Chukwudi knew the beneficiaries did not medically need PWCs. Defendant Chukwudi would
6 also bill and receive payments from Medicare for office visits and diagnostic tests allegedly
7 provided to beneficiaries brought to him by Adelco's marketers. Codefendant Ekwebelem would
8 purchase or otherwise obtain fraudulent prescriptions for DME and other medical documentation
9 for the beneficiaries, including false FTF forms from defendant Chukwudi and other doctors.
10 Sometimes, defendant Chukwudi and other doctors would provide Adelco with pre-signed FTF
11 forms that were blank except for the basic patient information and doctor's signature, in which
12 case either codefendant Ekwebelem or Adelco employees acting at codefendant Ekwebelem's
13 instruction would complete the form with additional information aimed at justifying the medical
14 necessity of the DME. Codefendant Ekwebelem would write checks from the Adelco bank and
15 pay cash to marketers and doctors, including Chukwudi, in exchange for his referring Medicare
16 beneficiaries to Adelco.

17 *(Counts 6, 7, 10, 16, 17 & 18 - 18 U.S.C. § 1347: Health Care Fraud, §2(b): Aiding & Abetting)*

18 The Scheme to Defraud

19 *(Count Six)*

20 13. From in or about June 2010 to in or about October 2011, defendant Chukwudi,
21 together with others known and unknown to the Grand Jury, knowingly, willfully, and with intent
22 to defraud, executed a scheme and artifice: (a) to defraud a health care benefit program, namely,
23 Medicare, as to material matters in connection with the delivery of and payment for health care
24 benefits, items, and services; and (b) to obtain money from Medicare by means of material false
25 and fraudulent pretenses and representations and the concealment of material facts in connection
26 with the delivery of and payment for health care benefits, items and services.

27 14. On or about September 29, 2010, within the Central District of California, and
28 elsewhere, for the purpose of executing the scheme to defraud described above, Chukwudi

1 knowingly and willfully submitted and caused to be submitted to Medicare a false and fraudulent
2 claim for a motorized wheelchair and accessories in the amount of \$7,061.07 (Claim No.
3 10272854220000).

4 *(Count Seven)*

5 15. From in or about June 2010 to in or about October 2011, defendant Chukwudi,
6 together with others known and unknown to the Grand Jury, knowingly, willfully, and with intent
7 to defraud, executed a scheme and artifice: (a) to defraud a health care benefit program, namely,
8 Medicare, as to material matters in connection with the delivery of and payment for health care
9 benefits, items, and services; and (b) to obtain money from Medicare by means of material false
10 and fraudulent pretenses and representations and the concealment of material facts in connection
11 with the delivery of and payment for health care benefits, items and services.

12 16. On or about November 1, 2010, within the Central District of California, and
13 elsewhere, for the purpose of executing the scheme to defraud described above, Chukwudi
14 knowingly and willfully submitted and caused to be submitted to Medicare a false and fraudulent
15 claim for a motorized wheelchair and accessories, as well as orthotics, in the amount of \$7,967.94
16 (Claim No. 10305879819000).

17 *(Count Ten)*

18 17. From in or about June 2010 to in or about October 2011, defendant Chukwudi,
19 together with others known and unknown to the Grand Jury, knowingly, willfully, and with intent
20 to defraud, executed a scheme and artifice: (a) to defraud a health care benefit program, namely,
21 Medicare, as to material matters in connection with the delivery of and payment for health care
22 benefits, items, and services; and (b) to obtain money from Medicare by means of material false
23 and fraudulent pretenses and representations and the concealment of material facts in connection
24 with the delivery of and payment for health care benefits, items and services.

25 18. On or about July 11, 2011, within the Central District of California, and elsewhere,
26 for the purpose of executing the scheme to defraud described above, Chukwudi knowingly and
27 willfully submitted and caused to be submitted to Medicare a false and fraudulent claim for a
28 motorized wheelchair (rental) and accessories in the amount of \$4,651.08 (Claim No.

1 11192886051000).

2 (Count Sixteen)

3 19. From in or about June 2010 to in or about October 2011, defendant Chukwudi,
4 together with others known and unknown to the Grand Jury, knowingly, willfully, and with intent
5 to defraud, executed a scheme and artifice: (a) to defraud a health care benefit program, namely,
6 Medicare, as to material matters in connection with the delivery of and payment for health care
7 benefits, items, and services; and (b) to obtain money from Medicare by means of material false
8 and fraudulent pretenses and representations and the concealment of material facts in connection
9 with the delivery of and payment for health care benefits, items and services.

10 20. On or about November 8, 2010, within the Central District of California, and
11 elsewhere, for the purpose of executing the scheme to defraud described above, Chukwudi
12 knowingly and willfully submitted and caused to be submitted to Medicare a false and fraudulent
13 claim for a motorized wheelchair and accessories, as well as orthotics, in the amount of \$7,167.58
14 (Claim No. 10312877926000).

15 (Count Seventeen)

16 21. From in or about June 2010 to in or about October 2011, defendant Chukwudi,
17 together with others known and unknown to the Grand Jury, knowingly, willfully, and with intent
18 to defraud, executed a scheme and artifice: (a) to defraud a health care benefit program, namely,
19 Medicare, as to material matters in connection with the delivery of and payment for health care
20 benefits, items, and services; and (b) to obtain money from Medicare by means of material false
21 and fraudulent pretenses and representations and the concealment of material facts in connection
22 with the delivery of and payment for health care benefits, items and services.

23 22. On or about November 23, 2010, within the Central District of California, and
24 elsewhere, for the purpose of executing the scheme to defraud described above, Chukwudi
25 knowingly and willfully submitted and caused to be submitted to Medicare a false and fraudulent
26 claim for a motorized wheelchair and accessories, as well as orthotics, in the amount of \$7,167.54
27 (Claim No. 10327858400000).

28 ///

1 (Count Eighteen)

2 23. From in or about June 2010 to in or about October 2011, defendant Chukwudi,
3 together with others known and unknown to the Grand Jury, knowingly, willfully, and with intent
4 to defraud, executed a scheme and artifice: (a) to defraud a health care benefit program, namely,
5 Medicare, as to material matters in connection with the delivery of and payment for health care
6 benefits, items, and services; and (b) to obtain money from Medicare by means of material false
7 and fraudulent pretenses and representations and the concealment of material facts in connection
8 with the delivery of and payment for health care benefits, items and services.

9 24. On or about July 1, 2011, within the Central District of California, and elsewhere,
10 for the purpose of executing the scheme to defraud described above, Chukwudi knowingly and
11 willfully submitted and caused to be submitted to Medicare a false and fraudulent claim for a
12 motorized wheelchair (rental) and accessories in the amount of \$2,051.08 (Claim No.
13 11182849574000).

14 POST INDICTMENT PROCEEDINGS

15 25. On or about January 1, 2014, Respondent was arrested at approximately 6:30 p.m.
16 Respondent was charged and booked for violation of Title 18, United States Code, Sections 1347
17 and 1349.

18 26. On or about January 2, 2014, Respondent pled not guilty to all counts in the
19 Second Superseding Indictment at his arraignment, and the Court, inter alia, set an appearance
20 bond bail in the amount of \$75,000.

21 27. On or about August 11, 2014, Respondent failed to appear at the Pretrial
22 Conference. The Court then issued a bench warrant, but placed the bench warrant on hold until
23 10:00 a.m., on August 12, 2014.

24 28. On or about November 17, 2014, the Court held a hearing on the Government's
25 motion for bail forfeiture and entry of judgment against Respondent. The Court granted the
26 Government's motion, declared the bond forfeited, and entered judgment against Respondent's
27 surety in the amount of \$20,000.

28 29. Although a final disposition was reached with respect to all of the other

1 codefendants in the matter entitled *United States of America v. Uche Chukwudi et al.*, case
2 number CR-12-01170(B)-MWF, Respondent never appeared for trial, which commenced on
3 September 9, 2014, and he remains a fugitive at large.

4 **SECOND CAUSE FOR DISCIPLINE**

5 (Unprofessional Conduct)

6 30. Respondent is subject to disciplinary action under Code section 2234 in that he
7 engaged in unprofessional conduct, as described by the facts and circumstances alleged above in
8 paragraphs 9 through 29, which are incorporated here as if fully set forth.

9 **PRAAYER**

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

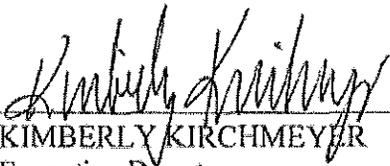
12 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 105496,
13 issued to Uche Austine Chukwudi, M.D.;

14 2. Revoking, suspending or denying approval of his authority to supervise physician
15 assistants, pursuant to section 3527 of the Code;

16 3. Ordering him to pay the Medical Board of California, if placed on probation, the
17 cost of probation monitoring; and

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

19
20 DATED: November 23, 2016


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

