

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

**In the Matter of the Accusation)
Against:)**

JAMES WESLEY MICHEL, M.D.)

Case No. 800-2015-011446

**Physician's and Surgeon's)
Certificate No. G 46554)**

Respondent)

**DENIAL BY OPERATION OF LAW
PETITION FOR RECONSIDERATION**

No action having been taken on the petition for reconsideration, filed by James Wesley Michel, M.D., and the time for action having expired at 5 p.m. on May 25, 2016, the petition is deemed denied by operation of law.

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

11 In the Matter of the Accusation Against,
12 **JAMES WESLEY MICHEL, M.D.**
13 Lincoln at 8th
P.O. Box 4947
14 Carmel, CA 93921-4947
15
16 Physician's and Surgeon's Certificate No.
G46554
17 Respondent

Case No. 800-2015-011446
**DEFAULT DECISION
AND ORDER**
[Gov. Code §11520]

18
19 On or about January 26, 2016, an employee of the Medical Board of California (Board)
20 served by Certified Mail a copy of the Accusation No. 800-2015-011446, Statement to
21 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
22 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is
23 Lincoln at 8th, P.O. Box 4947, Carmel, CA 93921-4947. Accusation No. 800-2015-011446
24 against James Wesley Michel, M.D. (Respondent) before the Medical Board of California.
25 Respondent did not claim the certified mail. (Exhibit Package, Exhibit 1¹: Accusation, the
26 related documents, Declaration of Service, and U.S. Postal Service Tracking Information.)

27 ¹ The evidence in support of this Default Decision and Order is contained in the "Exhibit
28 Package."

1 On February 24, 2016, an employee of the Attorney General's Office sent by certified mail
2 addressed to Respondent at his address of record a courtesy Notice of Default, advising
3 Respondent of the Accusation, and providing Respondent with an opportunity to request relief
4 from default. (Exhibit Package, Exhibit 2: Courtesy Notices of Default, proofs of service and
5 U.S. Postal Service Tracking Information.)

6 Respondent has not responded to service of the Accusation or the courtesy Notice of
7 Default. He has not filed a Notice of Defense. As a result, Respondent has waived his right to a
8 hearing on the merits to contest the allegations contained in the Accusation.

9 FINDINGS OF FACT

10 I.

11 Complainant Kimberly Kirchmeyer is the Executive Director of the Board. The charges
12 and allegations in Accusation No. 800-2015-011446 were at all times brought and made solely in
13 the official capacity of the Board's Executive Director.

14 II.

15 On or about November 23, 1981, the Board issued Physician's and Surgeon's Certificate
16 No. G46554 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect
17 at all times relevant to the charges brought herein and will expire on June 30, 2017, unless
18 renewed. (Exhibit Package, Exhibit 3: License Certification.)

19 III.

20 On or about January 26, 2016, Respondent was served with an Accusation, alleging causes
21 for discipline against Respondent. The Accusation and accompanying documents were duly
22 served on Respondent. A courtesy Notice of Default was thereafter served on Respondent.
23 Respondent failed to file a Notice of Defense.

24 IV.

25 The allegations of the Accusation are true as follows:

26 The Declaration of Board Investigator Todd Iriyama (Exhibit Package, Exhibit 4)
27 establishes the following:
28

1 On February 28, 2015, the Board received an 805 Business and Professions Code Peer
2 Review Report from the Central California Alliance for Health (CCAH). According to the 805
3 Report, Respondent failed to submit a complete Corrective Action Plan to CCAH to address
4 deficiencies in Critical Elements which were identified during a Facility Site Review; failed to
5 timely provide the Plan with the requested medical charts for the review; failed to respond to a
6 Corrective Action Plan which was proposed for him after a Medical Record Review; and failed to
7 provide evidence that the identified issues from the Medical Record Review had been corrected.

8 On June 17, 2015, the Board Investigator Iriyama mailed a request for a certified copy of a
9 patient's medical records to Respondent's address of record. This request was accompanied by
10 the patient's written authorization for the release of the medical records to the Board. Respondent
11 signed that he received the request for records. The records were due on July 6, 2015. Board
12 investigators attempted to reach Respondent via telephone numerous times to speak with him
13 about the request, but were unable to reach Respondent.

14 On July 17, 2015, investigative subpoenas (subpoenas duces tecum) were served on
15 Respondent's address of record for an additional four patients' medical records. Respondent
16 signed the certified mail receipt for the subpoenas indicating he had received them. The records
17 were due on August 17, 2015. Board investigators went to Respondent's listed office address to
18 speak with him, however, Respondent did not have an office at that address.

19 On August 20, 2015, after a lengthy investigation, Board investigators located the
20 Respondent at a personal residence. When the Respondent appeared at the door, he appeared
21 surprised and said, "How did you find me?" Respondent admitted that he had received the
22 aforementioned subpoenas.

23 Respondent has failed to produce documents in response to the Board's request for patient
24 records and the subpoenas noted herein.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent James Wesley Michel, M.D., has
3 subjected his Physician's and Surgeon's Certificate No. G46554 to discipline.

4 2. A copy of the Accusation and the related documents and Declaration of Service are
5 attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Medical Board of California is authorized to revoke Respondent's Physician's
8 and Surgeon's Certificate based upon the following violations alleged in the Accusation:

9 Business and Professions code sections 2225.5, and/or 2234, and/or 2234(a), and/or
10 2234(e), and/or 2234(f), and/or 2266 of the Code in that Respondent failed to comply with a
11 request for records that was accompanied by a patient's authorization for release, and/or engaged
12 in unprofessional conduct, and/or failed to maintain adequate medical records.

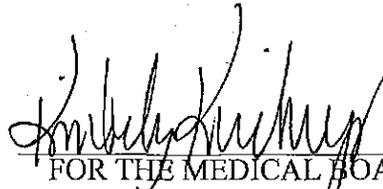
13 ORDER

14 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G46554, heretofore
15 issued to Respondent James Wesley Michel, M.D., is revoked.

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

20 This Decision shall become effective on May 25, 2016.

21 It is so ORDERED April 25, 2016.

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24 FOR THE MEDICAL BOARD OF CALIFORNIA
25 Kimberly Kirchmeyer
26 Executive Director

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO January 26, 2016
BY: *[Signature]* ANALYST

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

In the Matter of the Accusation Against:
JAMES WESLEY MICHEL, M.D.
Lincoln at 8th
P.O. Box 4947
Carmel, CA 93921-4947

Physician's and Surgeon's certificate
No. G46554,

Respondent.

Case No. 800-2015-011446
ACCUSATION

Complainant alleges:

PARTIES

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

2. On or about November 23, 1981, the Medical Board issued Physician's and Surgeon's certificate Number G46554 to James Wesley Michel, M.D. (Respondent). The Physician's and Surgeon's certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2017, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 2004 of the Code states, in relevant part:

5 "The board shall have the responsibility for the following:

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

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

9 "(c) Carrying out disciplinary actions appropriate to findings made by a panel or an
10 administrative law judge.

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

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

15 5. Section 2225.5 of the Code provides that a licensee who fails or refuses to comply
16 with a request for the certified medical records of a patient, that is accompanied by that patient's
17 written authorization for release of records to the board, within 15 days of receiving the request
18 and authorization, shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day
19 for each day that the documents have not been produced after the 15th day, up to ten thousand
20 dollars (\$10,000), absent a showing of good cause.

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

25 7. Section 2234 of the Code, states:

26 "The board shall take action against any licensee who is charged with unprofessional
27 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
28 limited to, the following:

1 11. On February 28, 2015, the Board received an 805 Business and Professions Code Peer
2 Review Report from the Central California Alliance for Health (CCAH). According to the 805
3 Report, Respondent failed to submit a complete Corrective Action Plan to CCAH to address
4 deficiencies in Critical Elements which were identified during a Facility Site Review; failed to
5 timely provide the Plan with the requested medical charts for the review; failed to respond to a
6 Corrective Action Plan which was proposed for him after a Medical Record Review; and failed to
7 provide evidence that the identified issues from the Medical Record Review had been corrected.

8 12. On June 17, 2015, the Board sent a request for a certified copy of a patient's medical
9 records to Respondent's address of record. This request was accompanied by the patient's written
10 authorization for the release of the medical records to the Board. Respondent signed that he
11 received the request for records. The records were due on July 6, 2015. Board investigators
12 attempted to reach Respondent via telephone numerous times to speak with him about the request,
13 but were unable to reach Respondent.

14 13. On July 17, 2015, investigative subpoenas (subpoenas duces tecum) were served on
15 Respondent's address of record for an additional four patients' medical records. Respondent
16 signed for the subpoenas when he received them. The records were due on August 17, 2015.
17 Board investigators went to Respondent's listed office address to speak with him, however,
18 Respondent did not have an office at that address.

19 14. On August 20, 2015, after a lengthy investigation, Board investigators located the
20 Respondent at a personal residence. When the Respondent appeared at the door, he appeared
21 surprised and said, "How did you find me?" Respondent stated that he had received the
22 aforementioned subpoenas.

23 15. To date, Respondent has failed to produce any documents in response to any request
24 or subpoena noted herein.

25 16. Respondent's conduct, as described above, constitutes a violation of Section 2225.5
26 of the Code, and/or unprofessional conduct, and/or failure to maintain adequate medical records.

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1 PRAYER

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

4 1. Revoking or suspending Physician's and Surgeon's certificate Number G46554, issued
5 to James Wesley Michel, M.D.;

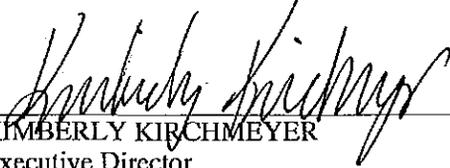
6 2. Revoking, suspending or denying approval of James Wesley Michel, M.D.'s authority
7 to supervise physician assistants, pursuant to section 3527 of the Code;

8 3. Ordering James Wesley Michel, M.D., if placed on probation, to pay the Board the
9 costs of probation monitoring;

10 4. Ordering James Wesley Michel, M.D. to pay a civil penalty of \$10,000 for each
11 violation of Code section 2225.5; and

12 5. Taking such other and further action as deemed necessary and proper.

13
14
15 DATED: January 26, 2016


16 KIMBERLY KIRCHMEYER
17 Executive Director
18 Medical Board of California
19 Department of Consumer Affairs
20 State of California
21 *Complainant*

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