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7  
8 BEFORE THE  
9 DIVISION OF MEDICAL QUALITY  
10 MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

11 In the Matter of the Accusation ) Case No. D-4421  
Against: )  
12 )  
13 JAMES HARRISON WHITE, M.D. ) DEFAULT DECISION  
14 1401 Avocado Avenue, Ste. 305 )  
Newport Beach, CA 92660 )  
15 )  
16 Physician's and Surgeon's )  
Certificate No. C30449, )  
Respondent. )

17  
18 FINDINGS OF FACT

19 1. On or about December 12, 1990, Complainant Kenneth J.  
20 Wagstaff, in his official capacity as Executive Director of the  
21 Medical Board of California [formerly the Board of Medical  
22 Quality Assurance], Department of Consumer Affairs, State of  
23 California (hereinafter the "Board"), filed Accusation No. D-  
24 4421 against James Harrison White, M.D. (hereinafter  
25 "respondent").  
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1           2. On or about December 13, 1990, Sher A. McBrearty, an  
2 employee of the Office of the Attorney General of the State of  
3 California, sent, by certified mail, true copies of Accusation  
4 No. D-4421, Statement to Respondent, Government Code Sections  
5 11507.5, 11507.6 and 11507.7, a Request for Discovery, and the  
6 Notice of Defense Form, in triplicate, (hereinafter the "service  
7 package") to respondent at his address of record, 1401 Avocado  
8 Avenue, Suite 305, Newport Beach, California, 92660. On that  
9 same date, Ms. McBrearty also sent a second service package, by  
10 certified mail, to respondent at the Inmate Reception Center,  
11 Orange County Jail, 550 N. Flower, Santa Ana, California, 92703.

12           On or about December 19th and 21st, 1990, the Office of the  
13 Attorney General received the green return receipts for both  
14 service packages evidencing delivery of said package at both  
15 addresses. The above-described service was effective as a matter  
16 of law pursuant to the provisions of California Government Code  
17 Section 11505, subdivision (c).

18           In addition to the above-described service, on January 9,  
19 1991, respondent White was also personally served by Deputy  
20 Attorney General Margaret A. Lafko, in Department 8 of the Orange  
21 County Superior Court, with a copy of the service package.

22           3. On or about August 22, 1968, Physician's and Surgeon's  
23 Certificate No. C30449 was issued by the Board to respondent. At  
24 all times relevant herein said Certificate was, and currently is,  
25 in full force and effect and will expire on February 28, 1991,  
26 unless renewed. Respondent is not a supervisor of a Physician  
27 Assistant.

1           4. California Government Code Section 11506 provides, in  
2 pertinent part, that "[t]he respondent shall be entitled to a  
3 hearing on the merits if he files a notice of defense, and any  
4 such notice shall be deemed a specific denial of all parts of the  
5 accusation not expressly admitted. Failure to file such notice  
6 shall constitute a waiver of respondent's right to a hearing, but  
7 the agency in its discretion may nevertheless grant a hearing."

8           5. Respondent failed to file a Notice of Defense within 15  
9 days after service upon him of Accusation No. D-4421, as  
10 described in paragraph 2, above, and has therefore waived his  
11 right to a hearing on the merits of Accusation No. D-4421.

12           6. California Government Code Section 11520 provides, in  
13 pertinent part, that "[i]f the respondent fails to file a notice  
14 of defense or to appear at the hearing, the agency may take  
15 action based upon the respondent's express admissions or upon  
16 other evidence and affidavits may be used as evidence without any  
17 notice to respondent; . . ."

18           7. California Business and Professions Code section 2220  
19 provides, in pertinent part, that the Division of Medical Quality  
20 may take action against all persons guilty of violating the  
21 provisions of Chapter 5 of Division 2 of that Code.

22           8. California Business and Professions Code section 2227  
23 provides that a licensee whose matter has been heard by the  
24 Division of Medical Quality, by a medical quality review  
25 committee or a panel of such committee, or by an administrative  
26 law judge, or whose default has been entered, and who is found  
27 guilty may, in accordance with the provisions of this chapter:

1 (a) have his or her certificate revoked upon order of the  
2 division; (b) have his or her right to practice suspended for a  
3 period not to exceed one year upon order of the division or a  
4 committee or panel thereof; (c) be placed on probation upon order  
5 of the division or a committee or panel thereof; (d) be publicly  
6 reprimanded by the division or a committee or panel thereof; (e)  
7 have such other action taken in relation to discipline as the  
8 division, a committee or panel thereof, or an administrative law  
9 judge may deem proper.

10 9. California Business and Professions Code section 2234  
11 provides that:

12 "The Division of Medical Quality shall take action  
13 against any licensee who is charged with unprofessional  
14 conduct. In addition to provisions of this article,  
15 unprofessional conduct includes, but is not limited to,  
16 the following:

17 ". . .

18 "(e) The commission of any act involving  
19 dishonesty or corruption which is substantially related  
20 to the qualifications, functions, or duties of a  
21 physician or surgeon.

22 ". . ."

23 10. California Business and Professions Code section 2236  
24 provides, in pertinent part, that:

25 "(a) The conviction of any offense substantially  
26 related to the qualifications, functions, or duties of  
27 a physician and surgeon constitutes unprofessional  
28 conduct . . . The record of conviction shall be  
29 conclusive evidence only of the fact that the  
30 conviction occurred.

31 ". . ."

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1           11. Respondent has subjected his license to disciplinary  
2 action under California Business and Professions Code sections  
3 2220, 2227 and 2234, as defined by section 2236(a) of the Code,  
4 in that he has been convicted of crimes substantially related to  
5 the qualifications, functions or duties of a physician and  
6 surgeon as more particularly described hereinafter:

7           (a) On or about May 30, 1990, respondent pled nolo  
8 contendere to two counts of violating section 288a(f) (oral  
9 copulation on an unconscious victim) in Case No. C-79292 in  
10 the Orange County Superior Court. Prior to respondent's  
11 sentencing date of August 29, 1990, respondent fled the  
12 jurisdiction of the court. On or about October 17, 1990,  
13 respondent was taken into custody in Laredo, Texas and  
14 subsequently returned to Orange County. On or about October  
15 25, 1990, respondent was convicted on his plea of guilty of  
16 one count in violation of section 1320.5 of the Penal Code  
17 (failure to appear in court while on bail). On or about  
18 October 25, 1990, respondent was ordered by Judge Myron S.  
19 Brown to the California Institution for Men at Chino for a  
20 90-day diagnostic evaluation pursuant to section 1203.03 of  
21 the Penal Code.

22           (b) The facts and circumstances surrounding  
23 respondent's conviction are as follows: The male victim in  
24 this criminal case, who was at least 28 years old at the  
25 time of the offense and a patient of the respondent, had  
26 been encouraged to move into respondent's home because of  
27 the patient's financial difficulties. The victim was both a

1 psychiatric and medical patient of the respondent. During  
2 the course of the victim's relationship with respondent, he  
3 was administered numerous drugs and controlled substances,  
4 many of these in injectable form which rendered the patient  
5 unconscious on at least 100 occasions. The victim became an  
6 addict. During the commission of the criminal acts of oral  
7 copulation, the victim was completely unconscious apparently  
8 as a result of drugs administered by the respondent. These  
9 sexual acts were videotaped by the respondent without the  
10 victim's knowledge or consent.

11 (c) On or about January 9, 1991, in Case No. C-79292  
12 entitled People v. White, James Harrison, respondent was  
13 sentenced, in the Orange County Superior Court, to six (6)  
14 years in state prison on Count 1, violation of section  
15 288a(f) of the California Penal Code (oral copulation on an  
16 unconscious victim). Imposition of sentence on Count 2, a  
17 second violation of section 288a(f), was stayed by the  
18 Court.

19 (d) On or about January 9, 1991, in Case No. C-81997  
20 entitled People v. White, James Harrison, respondent was  
21 sentenced, in the Orange County Superior Court, to 2/3 years  
22 on Count 1, violation of section 1320.5 of the California  
23 Penal Code (failure to appear in court while on bail).

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1           12. Respondent has further subjected his license to  
2 disciplinary action under California Business and Professions  
3 Code sections 2220, 2227 and 2234, as defined by section 2234(e)  
4 of the Code, in that he has committed acts involving dishonesty  
5 or corruption which are substantially related to the  
6 qualifications, functions, or duties of a physician or surgeon as  
7 more particularly described hereinafter: Paragraph 11(b), above,  
8 is incorporated by reference as if fully set forth herein.

9                                   DETERMINATION OF ISSUES

10           1. By reason of the Findings of Fact numbers 1 through 12,  
11 above, respondent James Harrison White, M.D., has subjected his  
12 Physician's and Surgeon's Certificate No. C30449 to disciplinary  
13 action, separately and severally, under California Business and  
14 Professions Code Sections 2220, 2227, 2234, 2234(e) and 2236(a).

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ORDER

Physician's and Surgeon's Certificate No. C30449, heretofore issued by the Board to respondent James Harrison White, M.D., is hereby revoked.

The effective date of this order is May 6, 1991.

Pursuant to California Government Code Section 11520, subdivision (b), respondent is entitled to make any showing by way of mitigation prior to and including the effective date of this decision.

This order is made this 5th day of April, 1991.

*Theresa Claassen*  
\_\_\_\_\_  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



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8 MEDICAL BOARD OF CALIFORNIA

9 DEPARTMENT OF CONSUMER AFFAIRS

10 STATE OF CALIFORNIA  
11

12 In the Matter of the Accusation )  
Against: )

NO. D-4421

13 JAMES HARRISON WHITE, M.D. )  
14 1401 Avocado Avenue, Suite 305 )  
Newport Beach, California 92660 )

ACCUSATION

15 Physician's and Surgeon's )  
16 Certificate No. C 30449 )

17 Respondent. )  
18

19 Kenneth J. Wagstaff alleges that:

20 1. He is the Executive Director of the Medical Board  
21 of California and makes this accusation in his official  
22 capacity.

23 2. On August 22, 1968, respondent, James H. White,  
24 M.D., was issued Certificate No. C 30449 by the Board.

25 3. On April 13, 1990, the Orange County Superior  
26 Court issued a Temporary Restraining Order ("TRO") against  
27 respondent's right to practice medicine or to prescribe,

1 dispense, or administer controlled substances or dangerous  
2 drugs. This TRO was continued as a final order of the court  
3 on June 18, 1990, pursuant to a stipulation of the parties.

4 4. On May 1, 1990, the Division of Medical Quality  
5 issued an Order requiring respondent to undergo a psychiatric  
6 evaluation to determine whether or not he was mentally  
7 competent to practice medicine. Respondent has not yet  
8 undergone such an evaluation.

9 5. This accusation is made in reference to the  
10 following statutes in the Business and Professions Code:

11 A. Sections 2220 and 2234 provide that the Division  
12 of Medical Quality may take action against all persons  
13 guilty of unprofessional conduct.

14 B. Section 2227 provides, among other things, that a  
15 licensee whose matter has been heard and who is found  
16 guilty may have his license revoked, suspended, or be  
17 placed on probation.

18 C. Section 2234(e) defines unprofessional conduct to  
19 include the commission of any act involving dishonesty or  
20 corruption which is substantially related to the  
21 qualifications, functions, or duties of a physician or  
22 surgeon.

23 D. Section 2236(a) provides that the conviction of  
24 any offense substantially related to the qualifications,  
25 functions, or duties of a physician and surgeon  
26 constitutes unprofessional conduct. The record of

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1 conviction shall be conclusive evidence only of the fact  
2 that the conviction occurred.

3 6. Respondent's certificate is subject to discipline  
4 on account of the following:

5 On or about May 30, 1990, respondent pled nolo  
6 contendere to two counts in violation of section 288a(f)  
7 (oral copulation on an unconscious victim) in Case No.  
8 C-79292 in the Orange County Superior Court. Prior to  
9 respondent's sentencing date of August 29, 1990,  
10 respondent fled the jurisdiction of the court. On or  
11 about October 17, 1990, respondent was taken into custody  
12 in Laredo, Texas and subsequently returned to Orange  
13 County. On or about October 25, 1990, respondent was  
14 convicted on his plea of guilty of one count in violation  
15 of section 1320.5 of the Penal Code (failure to appear in  
16 court while on bail). On or about October 25, 1990,  
17 respondent was ordered by Judge Myron S. Brown to the  
18 California Institution for Men at Chino for a 90-day  
19 diagnostic evaluation pursuant to section 1203.03 of the  
20 Penal Code. Sentencing is scheduled for January 23, 1991.

21 7. The facts and circumstances surrounding this  
22 conviction are as follows:

23 The male victim in this criminal case who was at  
24 least 28 years old at the time of the offense and a patient  
25 of the respondent, had been encouraged to move into  
26 respondent's home because of the patient's financial  
27 difficulties. The victim was both a psychiatric and medical

1 patient of the respondent. During the course of the victim's  
2 relationship with respondent, he was administered numerous  
3 drugs and controlled substances, many of these in injectable  
4 form which rendered the patient unconscious on at least 100  
5 occasions. The victim became an addict.

6 During the commission of the criminal acts of oral  
7 copulation, the victim was completely unconscious apparently  
8 as a result of drugs administered by the respondent. These  
9 sexual acts were videotaped by the respondent without the  
10 victim's knowledge or consent.

11 The foregoing constitutes grounds for disciplinary  
12 action under sections 2220 and 2234, in conjunction with  
13 sections 2227, 2234(e), and 2236(a) of the Business and  
14 Professions Code.

15 WHEREFORE, complainant prays a hearing be held on the  
16 matters alleged and, after hearing and according to proof,  
17 that the Division issue an order revoking or suspending  
18 respondent's license or taking such other action as seems  
19 just.

20 DATED: 12/12/90

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22  
23 Kenneth J. Wagstaff  
24 KENNETH J. WAGSTAFF by *ML*  
25 Executive Director  
26 Medical Board of California

27 Complainant