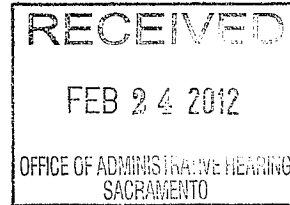


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8
9 **BEFORE THE**
DENTAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Interim Suspension
Order Against:

13 **DAVID MILTON LEWIS, D.M.D.**
14 **4350 Marconi Ave # 100**
Sacramento, CA 95821

15 **Dental License No. 31489**

16 Respondent.

DBC Case No. **01-2010-1305**

OAH Case No. **2012020853**

PETITION FOR INTERIM SUSPENSION
ORDER

Date: February 24, 2012

Time: 1:30 p.m.

Location: OAH - Sacramento

17
18 Petitioner, Richard DeCuir, Executive Officer of the Dental Board of California,
19 Department of Consumer Affairs, State of California ("Petitioner") hereby petitions the Office of
20 Administrative Hearings for an interim order suspending Dental License No. 31489, currently
21 issued to David Milton Lewis ("Respondent"), and by this petition alleges as follows:

22 1. At all times mentioned herein, Respondent David Milton Lewis has held Dental
23 License No. 31489, issued to him by the Dental Board of California ("Board") on July 14, 1983.
24 This license will expire on October 31, 2013, unless renewed. Respondent was issued Oral
25 Conscious Sedation Certification No. 1548 on September 16, 2008 and Fictitious Name Permit
26 No. 2130 was issued by the Board on September 28, 1998 (Decl. Clanton, Exh. 1).

27 2. Business and Professions Code section 494 provides that an administrative law judge
28 may issue an interim order suspending a license to practice dentistry. Such an order may be

1 issued if affidavits show that the licensee has engaged in, or is about to engage in, acts or
2 omissions constituting a violation of the Dental Practice Act and that permitting the licensee to
3 continue to engage in the profession for which the license was issued will endanger the public
4 health, safety, or welfare. This Order may be issued on an Ex Parte basis, with 24 hours notice
5 given to Respondent, if serious injury would result to the public before the matter could be heard
6 on regular notice.

7 3. Business and Professions Code section 810(a) states:

8 "It shall constitute unprofessional conduct and grounds for disciplinary action,
9 including suspension or revocation of a license or certificate, for a health care
10 professional to do any of the following in connection with his or her professional
11 activities:

12 (1) Knowingly present or cause to be presented any false or fraudulent claim for
13 the payment of a loss under a contract of insurance."

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

17 4. The issuance of insurance claims by Respondent and/or his staff for services for
18 procedures that were not performed, or for services that were performed only in part, such as
19 billing for a five-surface onlay, but providing only one, two, or three-surface onlay/inlay
20 restorations, is a false insurance claim in violation of Business and Professions Code section
21 810(a).

22 5. Business and Professions Code section section 1670 states: "Any licentiate may have
23 his license revoked or suspended or be reprimanded or be placed on probation by the board for
24 unprofessional conduct, or incompetence, or gross negligence, or repeated acts of negligence in
25 his or her profession. . ." The restoration to teeth that had no evidence of any need for dental
26 restoration work by Respondent is an extreme departure from the standard of care, and constitutes
27 gross negligence, in violation of Code section 1670.

28 6. Business and Professions Code section 1680(a) defines unprofessional conduct as:
"The obtaining of any fee by fraud or misrepresentation." The issuance of insurance claims by
Respondent and/or his staff for services for procedures that were not performed, or for services
that were performed only in part, such as billing for a five-surface onlay, but providing only one,

1 two, or three-surface onlay/inlay restorations, is a false insurance claim in violation of Business
2 and Professions Code section 1680(a).

3 7. Business and Professions Code section 650 states that it unlawful, and a
4 misdemeanor, for a dentist to offer or deliver money or any other type of consideration as
5 compensation or inducement for referring patients, clients, or customers to any person. The
6 payment of money to patients, staff, or the public for patient referrals by Respondent and/or his
7 staff is a violation of section 650.

8 CAUSES FOR INTERIM ORDER OF SUSPENSION

9 8. Respondent is a dentist with a valid license and is currently practicing dentistry in
10 Sacramento, California.

11 9. Respondent has violated the Dental Practice Act, and is subject to disciplinary action
12 under Business and Professions Code sections 650, 810(a), 1670, and 1680(a).

13 10. The payment of money to patients, staff, or the public for patient referrals by
14 Respondent and/or his staff is a violation of section 650.

15 11. The issuance of insurance claims by Respondent for services for procedures that were
16 not performed, or for services that were performed only in part, such as billing for a five-surface
17 onlay, but providing only one, two, or three-surface onlay/inlay restorations, is a false insurance
18 claim in violation of Business and Professions Code section 810(a).

19 12. The restoration to teeth that had no evidence of any need for dental restoration work
20 by Respondent is an extreme departure from the standard of care, and constitutes gross
21 negligence, in violation of Code section 1670.

22 13. The issuance of insurance claims for services for procedures that were not performed,
23 or for services that were performed only in part, such as billing for a five-surface onlay, but
24 providing only one, two, or three-surface onlay/inlay restorations, is a false insurance claim in
25 violation of Business and Professions Code section 1680(a).

26 14. Based on the above facts and the evidence presented with this Petition, it is clear that
27 Respondent is performing unnecessary and excessive treatment on patients' healthy and natural
28

1 teeth and issuing false dental claims for payment of these services, some of which were never
2 performed or were only performed in part.

3 15. Petitioner is prepared to file an Accusation in compliance with the requirements of
4 Business and Professions Code section 494 and petitioner stands ready to proceed to an
5 administrative hearing on the merits of the charges and allegations to be contained therein.

6 16. The Memorandum of Points and Authorities and following declarations and exhibits
7 are incorporated into this Petition as though fully set forth here:

8 A. Declaration of Dental Board Investigator Kyle Clanton and Exhibits attached thereto.

9 B. Declaration of Dental Board Expert Witness David Graham and Exhibits attached
10 thereto.

11 C. Declaration of Deputy Attorney General Jeffrey M. Phillips and Exhibits attached
12 thereto.

13 17. Permitting Respondent to continue to engage in the profession of dentistry will
14 endanger the public health, safety, and welfare.

15 18. Serious injury would result to the public before the matter could be heard on regular
16 notice because Respondent is performing unnecessary and excessive treatment on patients'
17 healthy and natural teeth and issuing false dental claims for payment of these services.
18

19 19. During the morning of Tuesday, February 21, 2012, notice of this *ex parte* hearing on
20 Petition for an Interim Suspension Order was provided to opposing counsel. (Decl. Phillips, ¶ 2.)

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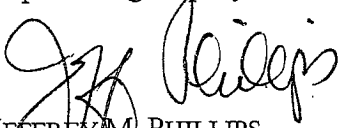
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PRAYER

WHEREFORE Petitioner prays that an Administrative Law Judge issue an Interim Order immediately suspending State Dental Certificate (Dental License) No. 31489 issued to David Milton Lewis, pursuant to Business and Professions Code section 494, for violations of Business and Professions Code sections 650, 810(a), 1670, and 1680(a), or such further relief as deemed necessary to protect the health, safety, and welfare of the public.

Dated: February 24, 2012

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General


JEFFREY M. PHILLIPS
Deputy Attorney General
Attorneys for Petitioner
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