

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS



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IN THE MATTER OF \*

LEONARD I. LESSER, M.D. \*

\* \* \* \* \*

FINAL

DECISION

A formal administrative hearing was conducted before the Louisiana State Board of Medical Examiners (Board) on September 22, 1983, to adjudicate alleged specified violations of the Louisiana Medical Practice Act by Leonard I. Lesser, M.D. (Dr. Lesser), to-wit: "[m]aking or submitting false or deceptive claims to any . . . insurance company . . . or governmental authority for the purpose of obtaining monetary compensation for services rendered," La. Rev. Stat., Title 37, Section 1285(11); and "[c]onviction of a crime," La. Rev. Stat., Title 37, Section 1285(1). A quorum of the Board was present.<sup>1</sup> Dr. Lesser was present and was represented by legal counsel, Max N. Nathan, Esq., a member of the Bar of the State of Louisiana.

Upon consideration of the evidence presented, both documentary and testimonial,<sup>2</sup> and the arguments and representations of Dr. Lesser's legal counsel, pursuant to

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<sup>1</sup> Richard M. Nunnally, M.D. was not present during the administrative hearing and took no part in the consideration of the evidence, findings of fact, conclusions of law or decision.

<sup>2</sup> Portions of the transcript from a California state court criminal proceeding, "People of the State of California vs. Leonard Lesser, M.D. and May Lesser," No. C-46858 (Cal. Sup. Ct., County of Orange), were identified, introduced and received into evidence by the Board, and consisted of a Bill of Information, Apr. 8, 1981, pp. 1-19; Pronouncement of Judgment, Sep. 3, 1981; and Reporter's Transcript from Pronouncement of Judgment and Sentence, Sep. 3, 1981.

-2-

LSA-R.S. 49:958 and LSA-R.S. 37:1285, the Board renders the following findings of fact, conclusions of law and decision.

FINDINGS OF FACTS

1

Dr. Lesser is a physician duly licensed by the Board to practice medicine in the state of Louisiana. At all times material to the activities which this administrative proceeding concerns, Dr. Lesser was engaged in the practice of psychiatry in Orange County, California.

2

On April 8, 1981, a Bill of Information was filed in the Orange County Superior Court, for the State of California, charging Dr. Lesser with violations of Section 847, subdivision 1, and Section 182, subdivision 4, Penal Code of California and Section 14107, Welfare and Institutions Code of California, relative to the crimes of grand theft, conspiracy and the filing of false Medi-Cal claims to Blue Shield of California and the State of California.<sup>3</sup> "People of the State of California v. Leonard Lesser, M.D. and May Lesser," No. C-46858 (Cal. Sup. Ct., County of Orange).

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<sup>3</sup> Dr. Lesser was charged with one (1) felony count of the crime of grand theft, in that he did willfully, unlawfully and feloniously take the money and personal property of another, of a value exceeding Two Hundred (\$200) Dollars, the property of Blue Shield of California and the state of California, in violation of Section 847, subdivision 1, Penal Code of California; the physician was also charged with one (1) count of conspiracy to cheat and defraud Blue Shield of California and the State of California, in violation of Section 182, subdivision 4, Penal Code of California; and, thirty-three (33) felony counts of the crime of filing false Medi-Cal claims, in that he did willfully and unlawfully, and with intent to defraud, present for allowance or payment, false and fraudulent Medi-Cal claims to Blue Shield of California and the State of California for furnishing services or merchandise, in violation of Section 14107, Welfare and Institutions Code of California.

-3-

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Said Bill of Information, more particularly, alleged that from April through September, 1978, Dr. Lesser willfully, unlawfully and feloniously, and with intent to defraud, presented for allowance or payment, false and fraudulent Medi-Cal claims to Blue Shield of California in the state of California for the furnishing services or merchandise which were not actually performed.

4

Dr. Lesser entered pleas of nolo contendere to one felony count of the crime of grand theft and eight felony counts of the crime of filing false Medi-Cal claims.

5

Pursuant to said plea, on September 3, 1981, imposition of sentence was suspended and Dr. Lesser was placed on supervised probation for a period of three years. A monetary fine and restitution to the California Health Care Deposit Fund, in the amount of One Hundred Sixty-Eight Thousand Five Hundred Thirty-Nine and 89/100 (\$168,539.89) Dollars was also assessed against the physician by the court.<sup>4</sup>

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<sup>4</sup> The terms and conditions of Dr. Lesser's probation, as reflected in the transcript of his sentencing, are that the physician (1) violate no law; (2) comply with the usual terms and conditions of probation, the Probation Department, the Court and the jail; (3) pay a fine of \$750 plus a penalty assessment and costs of probation; (4) make restitution to the State of California in the amount of \$168,539.89; (5) have only such employment, residence and associates as meets with approval of the probation officer; (6) surrender his Medi-Cal provided number and agree not to bill the Medi-Cal program, either under his own number or any other provider number under which he has financial interests.

The criminal offenses to which Dr. Lesser pleaded arose out of the physician's practice of medicine and his exercise of the privileges of medical licensure and, because of the nature thereof, have a direct and proximate relationship to his qualification and fitness to practice medicine. Nevertheless, the Board is impressed with the comments of the presiding judge, in rendering sentence in connection with the substantive charges in California,<sup>5</sup> the live testimony presented on his behalf during the hearing,<sup>6</sup> as well as the physician's frankness and responsiveness to the questions posed by the Board during its administrative proceeding.

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<sup>5</sup> The Board has considered the entirety of the Reporter's transcript, taken on September 3, 1981 in connection with the Pronouncement of Sentence by the Hon. Frank Domenichini, presiding judge. The Board is particularly impressed with the reasons enumerated by the court in favor of granting probation to Dr. Lesser. In expressing his reasoning, Judge Domenichini noted:

First of all, I think there's extenuating circumstances concerning the commission of these acts. The extenuating circumstances being that although the offenses have been committed, in the court's opinion with respect to the bookkeeping matters, that is excluding where there was a billing where services weren't rendered, were just that, bookkeeping errors.

The one sheet on the back of the Medi-Cal form says that the health care provider can submit bills for services he rendered or under his supervision, which is a question open to interpretation. And, from what the record indicates, the doctor thought that the use of a psychologist, social worker, educational specialist, fell within the preview of that provision, but it did not. . . . Medi-Cal is a difficult program, I am sure. I don't know all of the details of it, but through this fog or cloud that we view this three-year period, and the activities of Dr. Lesser and his office, one thing that shines bright is that he helped those people, with the exception of I think one case, one count where the person was in Missouri and he submitted the bills, but the bottom line was that the care was provided. . . . An additional reason this court has granted probation is, first of all, this defendant has an impeccable record, he has no prior record of any type, not even a traffic ticket. Certainly, the letters of recommendation show that he's a person of high moral character, dedicated to his profession, has contributed greatly on a voluntary basis to people in this state who needed help, and, as a matter of fact, when these offenses were committed I think he was contributing free of charge a certain number of hours to one of the local-I think it was Children's Hospital of Orange County, if I recall correctly.

Conclusions of Law

Based on the foregoing findings of fact, the Board concludes, as a matter of law that:

1

Dr. Lesser has made and submitted false or deceptive claims to an insurance company and governmental authority for the purpose of obtaining monetary compensation for services rendered, and, therefore, just cause exists for action against his license as provided by La. Rev. Stat., Title 37, Section 1285(11).

2

Dr. Lesser has entered a plea of nolo contendere to a criminal charge, and, therefore, just cause exists for action against his license as provided by La. Rev. Stat., Title 37, Section 1285(1).

DECISION

Considering the foregoing:

IT IS ORDERED that the license of Leonard I. Lesser, M.D., to practice medicine in the State of Louisiana, be, and the same is hereby, SUSPENDED, for a period of three (3) years from the date hereof.

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(Footnote 5 and 6 continued)

The letters of recommendation from all his colleagues and persons with whom he is associated, as well as from patients, are glowing.

I think a sixty-five year old person, with a professional background he has, has suffered enough under the circumstances.

(Reporter's Transcript, Sep. 3, 1981 at pp. 13-16).

<sup>6</sup> The physician submitted numerous written references from physicians and patients in California, attesting to Dr. Lesser's moral character, professional competency and dedication to community affairs and patients. Several character witnesses also appeared before the Board and testified on behalf of the physician.

-6-

IT IS FURTHER ORDERED that the foregoing Order of Suspension be, and the same is hereby, suspended; PROVIDED, however, that Dr. Lesser accept and comply with the following probationary terms, conditions and restrictions:

A) Dr. Lesser shall comply with all probationary terms and conditions imposed upon him by the Superior Court, Orange County, California, on September 3, 1981, until all such terms, conditions, restrictions and restitutions have been fully satisfied;


B) Dr. Lesser shall authorize the Probation Department, for the State of California, to respond to any inquiries which the Board may have concerning said probationary terms, conditions, restrictions and restitutions.

C) At the completion of the probationary period referred to above, Dr. Lesser shall cause to be submitted to the Board written evidence of his compliance with the terms, restrictions, conditions and restitutions of said probation.

IT IS FURTHER ORDERED that any violation of the probationary terms, conditions and restrictions set forth hereinabove shall be deemed just cause for the suspension or revocation of the medical license of Leonard I. Lesser, M.D., or for such other disciplinary action as the Board deems appropriate, as if such violation were enumerated among the causes provided in LSA-R.S. 37:1285.

New Orleans, Louisiana, this 21<sup>st</sup> day of October, 1983.

LOUISIANA STATE BOARD OF  
MEDICAL EXAMINERS

  
CHARLES B. ODOM, M.D.  
President