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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Jan 9 20 16  
BY                      ANALYST

7  
8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:  
13 **Thomas Samuel Cowan, M.D.**  
14 **661 Chenery**  
15 **San Francisco, CA 94117**  
  
16 **Physician's and Surgeon's Certificate**  
17 **No. G 86923,**  
  
18 Respondent.

Case No. 800-2015-016334

**A C C U S A T I O N**

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about June 18, 2003, the Medical Board issued Physician's and Surgeon's  
25 Certificate Number G 86923 to Thomas Samuel Cowan, M.D. (Respondent). The Physician's and  
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on October 31, 2018, unless renewed.

28 **JURISDICTION**

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

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

2 “The board shall have the responsibility for the following:

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

5 “(b) The administration and hearing of disciplinary actions.

6 “(c) Carrying out disciplinary actions appropriate to findings made by a panel or an  
7 administrative law judge.

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

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

12 “. . . .”

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

17 6. Section 2234 of the Code, states, in pertinent part:

18 “The board shall take action against any licensee who is charged with unprofessional  
19 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
20 limited to, the following:

21 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
22 violation of, or conspiring to violate any provision of this chapter.

23 “(b) Gross negligence.

24 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
25 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
26 the applicable standard of care shall constitute repeated negligent acts.

27 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
28 for that negligent diagnosis of the patient shall constitute a single negligent act.



1 12. Respondent did not advise P-1 that the FDA had not approved GcMAF and that there  
2 were no formal safety or efficacy studies regarding the use of GcMAF in humans and obtain  
3 informed consent from her before or in conjunction with recommending the treatment.

4 13. Respondent consulted with P-1 by telephone concerning her metastatic breast cancer  
5 on four occasions—September 19, 2013, October 18, 2013, November 21, 2014, and February 9,  
6 2015. He never saw her in person. Respondent did not advise P-1 of the potential risks of  
7 evaluating a patient by telephone without examining the patient in person.

8 14. In February 2015, P-1 learned that GcMAF from ImmunoBiotech, where Respondent  
9 had directed her to obtain the product, was potentially unsafe. On her last telephonic visit with  
10 Respondent on February 9, 2015, she advised Respondent that she was concerned about the  
11 health consequences of having taken an unsafe medication for fifteen months. Respondent did  
12 not document this discussion in his chart notes.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Gross Negligence)**

15 15. Respondent is guilty of unprofessional conduct and subject to disciplinary action  
16 under section 2234, subdivision (b) (gross negligence) and/or (c) (repeated negligent acts), of the  
17 Code in that he recommended a drug to P-1 that did not have safety studies in humans or efficacy  
18 studies in humans and he did not obtain informed consent from P-1 for that recommendation.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Repeated Negligent Acts, Inadequate Records)**

21 16. Respondent is guilty of unprofessional conduct and subject to disciplinary action  
22 under section 2234, subdivision (c) (repeated negligent acts), of the Code and/or section 2266  
23 (inadequate records) of the Code in that Respondent engaged in the conduct described above  
24 including, but not limited to, the following:

25 A. Respondent recommended a medication to P-1 without first performing a physical  
26 examination.

27 B. Respondent failed to obtain informed consent from P-1 about the potential risks of  
28 treatment over the telephone without performing a physical examination.

1 C. Respondent failed to ask for or obtain records of P-1's prior treatment for cancer.

2 D. Respondent did not document the discussion he had with P-1 advising her to be  
3 upfront with her oncologist about taking GcMAF.

4 E. Respondent did not document the discussion he had with P-1 about her concerns  
5 about the health consequences of having taken an unsafe medication for fifteen months.

6 **PRAYER**

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


9 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 86923,  
10 issued to Thomas Samuel Cowan, M.D.;

11 2. Revoking, suspending or denying approval of Thomas Samuel Cowan, M.D.'s  
12 authority to supervise physician assistants, pursuant to section 3527 of the Code;

13 3. Ordering Thomas Samuel Cowan, M.D., if placed on probation, to pay the Board the  
14 costs of probation monitoring; and

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

16  
17 DATED: January 9, 2017

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

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