

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

In the Matter of the Accusation Against:)	
)	
)	
DERON JEAN TESSIER, M.D.)	Case No. 09-2013-230734
)	
Physician's and Surgeon's)	
Certificate No. A 99173)	
)	
Respondent)	
_____)	


DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on October 31, 2014.

IT IS SO ORDERED: October 3, 2014.

MEDICAL BOARD OF CALIFORNIA

By: 
Dev Gnanadev, M.D., Chair
Panel B

1 KAMALA D. HARRIS
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2 THOMAS S. LAZAR
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3 JOSEPH F. MCKENNA III
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8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 09-2013-230734

13 **DERON JEAN TESSIER, M.D.**
14 **9985 Sierra Avenue**
15 **Fontana, CA 92335**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Physician's and Surgeon's Certificate
No. A99173

17 Respondent.

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer ("complainant") is the Executive Director of the Medical
23 Board of California ("Board"). She brought this action solely in her official capacity and is
24 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
25 Joseph F. McKenna III, Deputy Attorney General.

26 2. Respondent Deron Jean Tessier, M.D. ("respondent") is representing himself in this
27 proceeding and has chosen not to exercise his right to be represented by counsel.

28 ///

3. On or about March 2, 2007, the Board issued Physician's and Surgeon's Certificate No. A99173 to respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 09-2013-230734 and will expire on August 31, 2014, unless renewed.

JURISDICTION

4. On February 12, 2014, Accusation No. 09-2013-230734 was filed before the Board and is currently pending against respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on respondent. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 09-2013-230734 is attached as Exhibit A and incorporated herein by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and fully understands the charges and allegations in Accusation No. 09-2013-230734. Respondent has also carefully read, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation No. 09-2013-230734, the right to be represented by counsel at his own expense, the right to confront and cross-examine the witnesses against him, the right to present evidence and to testify on his own behalf, the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to reconsideration and court review of an adverse decision, and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 09-2013-230734 and that his Physician's and Surgeon's Certificate No. A99173 is therefore

1 subject to discipline. Respondent further agrees that if he ever petitions for early termination or
2 modification of probation, or if an Accusation is filed against him before the Board, all of the
3 charges and allegations contained in Accusation No. 09-2013-230734 shall be deemed true,
4 correct and fully admitted by respondent for purposes of any such proceeding or any other
5 licensing proceeding involving respondent in the State of California or elsewhere.

6 9. Respondent agrees that his Physician's and Surgeon's Certificate No. A99173 is
7 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth
8 in the Disciplinary Order below.

9 CONTINGENCY

10 10. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the
11 Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
12 submitted to the Board for its consideration in the above-entitled matter and, further, that the
13 Board shall have a reasonable period of time in which to consider and act on this Stipulated
14 Settlement and Disciplinary Order after receiving it. By signing this stipulation, respondent fully
15 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
16 prior to the time the Board considers and acts upon it.

17 11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
18 null and void and not binding upon the parties unless approved and adopted by the Board, except
19 for this paragraph, which shall remain in full force and effect. Respondent fully understands and
20 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
21 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
22 the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify
23 the Board, any member thereof, and/or any other person from future participation in this or any
24 other matter affecting or involving respondent. In the event that the Board does not, in its
25 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
26 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
27 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
28 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order

1 be rejected for any reason by the Board, respondent will assert no claim that the Board, or any
2 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
3 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

4 **ADDITIONAL PROVISIONS**

5 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
6 be an integrated writing representing the complete, final and exclusive embodiment of the
7 agreements of the parties in the above-entitled matter.

8 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
9 including copies of the signatures of the parties, may be used in lieu of original documents and
10 signatures and, further, that such copies shall have the same force and effect as originals.

11 14. In consideration of the foregoing admissions and stipulations, the parties agree the
12 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
13 the following Disciplinary Order:

14 **DISCIPLINARY ORDER**

15 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A99173 issued
16 to respondent Deron Jean Tessier, M.D. ("respondent") is revoked. However, revocation is
17 stayed and respondent is placed on probation for five (5) years upon the following terms and
18 conditions:

19 1. **ALCOHOL - ABSTAIN FROM USE**. Respondent shall abstain completely from the
20 use of products or beverages containing alcohol.

21 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall
22 receive a notification from the Board or its designee to immediately cease the practice of
23 medicine. The Respondent shall not resume the practice of medicine until final decision on an
24 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke
25 probation shall be filed by the Board within 15 days of the notification to cease practice. If the
26 Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board
27 shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent
28 stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or

1 the Board within 15 days unless good cause can be shown for the delay. The cessation of practice
2 shall not apply to the reduction of the probationary time period.

3 If the Board does not file an accusation or petition to revoke probation within 15 days of the
4 issuance of the notification to cease practice or does not provide Respondent with a hearing
5 within 30 days of a such a request, the notification of cease practice shall be dissolved.

6 2. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
7 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
8 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
9 follicle testing, or similar drug screening approved by the Board or its designee. Prior to
10 practicing medicine, Respondent shall contract with a laboratory or service approved in advance
11 by the Board or its designee that will conduct random, unannounced, observed, biological fluid
12 testing. The contract shall require results of the tests to be transmitted by the laboratory or
13 service directly to the Board or its designee within four hours of the results becoming available.
14 Respondent shall maintain this laboratory or service contract during the period of probation.

15 A certified copy of any laboratory test result may be received in evidence in any
16 proceedings between the Board and Respondent.

17 If Respondent fails to cooperate in a random biological fluid testing program within the
18 specified time frame, Respondent shall receive a notification from the Board or its designee to
19 immediately cease the practice of medicine. The Respondent shall not resume the practice of
20 medicine until final decision on an accusation and/or a petition to revoke probation. An
21 accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the
22 notification to cease practice. If the Respondent requests a hearing on the accusation and/or
23 petition to revoke probation, the Board shall provide the Respondent with a hearing within 30
24 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be
25 received from the Administrative Law Judge or the Board within 15 days unless good cause can
26 be shown for the delay. The cessation of practice shall not apply to the reduction of the
27 probationary time period.

28 If the Board does not file an accusation or petition to revoke probation within 15 days of the

1 issuance of the notification to cease practice or does not provide Respondent with a hearing
2 within 30 days of a such a request, the notification of cease practice shall be dissolved.

3 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
4 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
5 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.
6 Respondent shall participate in and successfully complete that program. Respondent shall
7 provide any information and documents that the program may deem pertinent. Respondent shall
8 successfully complete the classroom component of the program not later than six (6) months after
9 Respondent's initial enrollment, and the longitudinal component of the program not later than the
10 time specified by the program, but no later than one (1) year after attending the classroom
11 component. The professionalism program shall be at Respondent's expense and shall be in
12 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

13 A professionalism program taken after the acts that gave rise to the charges in the
14 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
15 or its designee, be accepted towards the fulfillment of this condition if the program would have
16 been approved by the Board or its designee had the program been taken after the effective date of
17 this Decision.

18 Respondent shall submit a certification of successful completion to the Board or its
19 designee not later than 15 calendar days after successfully completing the program or not later
20 than 15 calendar days after the effective date of the Decision, whichever is later.

21 4. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
22 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
23 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
24 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
25 consider any information provided by the Board or designee and any other information the
26 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
27 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
28 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all

1 psychiatric evaluations and psychological testing.

2 Respondent shall comply with all restrictions or conditions recommended by the evaluating
3 psychiatrist within 15 calendar days after being notified by the Board or its designee.

4 5. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
5 Respondent shall submit to the Board or its designee for prior approval the name and
6 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
7 has a doctoral degree in psychology and at least five years of postgraduate experience in the
8 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
9 undergo and continue psychotherapy treatment, including any modifications to the frequency of
10 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

11 The psychotherapist shall consider any information provided by the Board or its designee
12 and any other information the psychotherapist deems relevant and shall furnish a written
13 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
14 psychotherapist any information and documents that the psychotherapist may deem pertinent.

15 Respondent shall have the treating psychotherapist submit quarterly status reports to the
16 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
17 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
18 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
19 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
20 period of probation shall be extended until the Board determines that Respondent is mentally fit
21 to resume the practice of medicine without restrictions.

22 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

23 6. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
24 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
25 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
26 who shall consider any information provided by the Board or designee and any other information
27 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
28 designee. Respondent shall provide the evaluating physician any information and documentation

1 that the evaluating physician may deem pertinent.

2 Following the evaluation, Respondent shall comply with all restrictions or conditions
3 recommended by the evaluating physician within 15 calendar days after being notified by the
4 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
5 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
6 Board or its designee for prior approval the name and qualifications of a California licensed
7 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
8 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
9 further notice from the Board or its designee.

10 The treating physician shall consider any information provided by the Board or its designee
11 or any other information the treating physician may deem pertinent prior to commencement of
12 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
13 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
14 Respondent shall provide the Board or its designee with any and all medical records pertaining to
15 treatment, the Board or its designee deems necessary.

16 If, prior to the completion of probation, Respondent is found to be physically incapable of
17 resuming the practice of medicine without restrictions, the Board shall retain continuing
18 jurisdiction over Respondent's license and the period of probation shall be extended until the
19 Board determines that Respondent is physically capable of resuming the practice of medicine
20 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

21 7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
22 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
23 Chief Executive Officer at every hospital where privileges or membership are extended to
24 Respondent, at any other facility where Respondent engages in the practice of medicine,
25 including all physician and locum tenens registries or other similar agencies, and to the Chief
26 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
27 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
28 calendar days.

1 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

2 8. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
3 prohibited from supervising physician assistants.

4 9. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
5 governing the practice of medicine in California and remain in full compliance with any court
6 ordered criminal probation, payments, and other orders.

7 10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
8 under penalty of perjury on forms provided by the Board, stating whether there has been
9 compliance with all the conditions of probation.

10 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
11 of the preceding quarter.

12 11. GENERAL PROBATION REQUIREMENTS.

13 Compliance with Probation Unit:

14 Respondent shall comply with the Board's probation unit and all terms and conditions of
15 this Decision.

16 Address Changes:

17 Respondent shall, at all times, keep the Board informed of Respondent's business and
18 residence addresses, email address (if available), and telephone number. Changes of such
19 addresses shall be immediately communicated in writing to the Board or its designee. Under no
20 circumstances shall a post office box serve as an address of record, except as allowed by Business
21 and Professions Code section 2021(b).

22 Place of Practice:

23 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
24 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
25 facility.

26 License Renewal:

27 Respondent shall maintain a current and renewed California physician's and surgeon's
28 license.

1 Travel or Residence Outside California:

2 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
3 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
4 (30) calendar days.

5 In the event Respondent should leave the State of California to reside or to practice
6 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
7 departure and return.

8 12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
9 available in person upon request for interviews either at Respondent's place of business or at the
10 probation unit office, with or without prior notice throughout the term of probation.

11 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
12 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
13 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
14 defined as any period of time Respondent is not practicing medicine in California as defined in
15 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
16 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
17 time spent in an intensive training program which has been approved by the Board or its designee
18 shall not be considered non-practice. Practicing medicine in another state of the United States or
19 Federal jurisdiction while on probation with the medical licensing authority of that state or
20 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
21 not be considered as a period of non-practice.

22 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
23 months, Respondent shall successfully complete a clinical training program that meets the criteria
24 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
25 Disciplinary Guidelines" prior to resuming the practice of medicine.

26 Respondent's period of non-practice while on probation shall not exceed two (2) years.

27 Periods of non-practice will not apply to the reduction of the probationary term.

28 Periods of non-practice will relieve Respondent of the responsibility to comply with the

1 probationary terms and conditions with the exception of this condition and the following terms
2 and conditions of probation: Obey All Laws; and General Probation Requirements.

3 14. COMPLETION OF PROBATION. Respondent shall comply with all financial
4 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
5 completion of probation. Upon successful completion of probation, Respondent's certificate shall
6 be fully restored.


7 15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
8 of probation is a violation of probation. If Respondent violates probation in any respect, the
9 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
10 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
11 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
12 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
13 the matter is final.

14 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
15 with probation monitoring each and every year of probation, as designated by the Board, which
16 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
17 California and delivered to the Board or its designee no later than January 31 of each calendar
18 year.

19 ACCEPTANCE

20 I have carefully read the Stipulated Settlement and Disciplinary Order. I fully understand
21 the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No.
22 A99173. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,
23 and intelligently, and agree to be bound by the Decision and Order of the Medical Board of
24 California.

25 DATED: 7/22/17

26 
DERON JEAN TESSIER, M.D.
27 Respondent

28 ///

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: *July 28, 2014*

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General

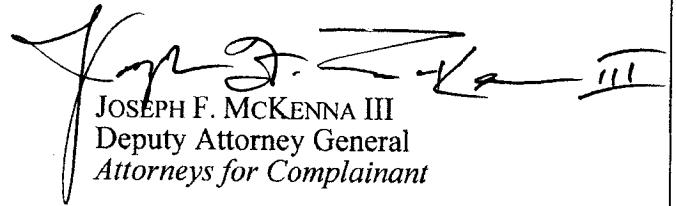

JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 09-2013-230734

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 12 20 14
BY R. FIRDIAVS ANALYST

10 BEFORE THE
11 MEDICAL BOARD OF CALIFORNIA
12 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 09-2013-230734

14 DERON JEAN TESSIER, M.D.
15 9985 Sierra Avenue
Fontana, CA 92335

ACCUSATION

16 Physician's and Surgeon's Certificate
17 No. A99173

Respondent.

18
19
20 Complainant alleges:

21 PARTIES

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

25 2. On or about March 2, 2007, the Medical Board of California issued Physician's and
26 Surgeon's Certificate Number A99173 to Deron Jean Tessier, M.D. (Respondent). The
27 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
28 charges brought herein and will expire on August 31, 2014, unless renewed.

JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

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1 5. Section 2234 of the Code states:

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

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

7 “...”

8 6. Unprofessional conduct under Code section 2234 is conduct which breaches the rules
9 or ethical code of the medical profession, or conduct which is unbecoming a member in good
10 standing of the medical profession, and which demonstrates an unfitness to practice medicine.
11 (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

12 7. Section 2236 of the Code states:

13 “(a) The conviction of any offense substantially related to the qualifications,
14 functions, or duties of a physician and surgeon constitutes unprofessional conduct
15 within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The
16 record of conviction shall be conclusive evidence only of the fact that the
17 conviction occurred.

18 “(b) The district attorney, city attorney, or other prosecuting agency shall
19 notify the Division of Medical Quality of the pendency of an action against a
20 licensee charging a felony or misdemeanor immediately upon obtaining
21 information that the defendant is a licensee. The notice shall identify the licensee
22 and describe the crimes charged and the facts alleged. The prosecuting agency
23 shall also notify the clerk of the court in which the action is pending that the
24 defendant is a licensee, and the clerk shall record prominently in the file that the
25 defendant holds a license as a physician and surgeon.

26 “(c) The clerk of the court in which a licensee is convicted of a crime shall,
27 within 48 hours after the conviction, transmit a certified copy of the record of
28 conviction to the board. The division may inquire into the circumstances

1 surrounding the commission of a crime in order to fix the degree of discipline or to
2 determine if the conviction is of an offense substantially related to the
3 qualifications, functions, or duties of a physician and surgeon.

4 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere
5 is deemed to be a conviction within the meaning of this section and Section
6 2236.1. The record of conviction shall be conclusive evidence of the fact that the
7 conviction occurred.”

8 8. Section 2239 of the Code states:

9 “(a) The use ... of alcoholic beverages, to the extent, or in such a manner as
10 to be dangerous or injurious to the licensee, or to any other person or to the public,
11 or to the extent that such use impairs the ability of the licensee to practice
12 medicine safely or more than one misdemeanor or any felony involving the use,
13 consumption, or self-administration of any of the substances referred to in this
14 section, or any combination thereof, constitutes unprofessional conduct. The
15 record of the conviction is conclusive evidence of such unprofessional conduct.

16 “(b) A plea or verdict of guilty or a conviction following a plea of nolo
17 contendere is deemed to be a conviction within the meaning of this section. The
18 Division of Medical Quality may order discipline of the licensee in accordance
19 with Section 2227 or the Division of Licensing may order the denial of the license
20 when the time for appeal has elapsed or the judgment of conviction has been
21 affirmed on appeal or when an order granting probation is made suspending
22 imposition of sentence, irrespective of a subsequent order under the provisions of
23 Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea
24 of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
25 dismissing the accusation, complaint, information, or indictment.”¹

26 ¹ There is a nexus between a physician’s use of alcoholic beverages and his or her fitness to
27 practice medicine, established by the Legislature in section 2239, “in all cases where a licensed physician
28 used alcoholic beverages to the extent or in such a manner as to pose a danger to himself or others.”
(*Watson v. Superior Court* (Medical Board) (2009) 176 Cal.App.4th 1407, 1411.)

1 9. Section 1360, title 16, of the California Code of Regulations states:

2 “For the purposes of denial, suspension or revocation of a license, certificate or permit
3 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
4 considered to be substantially related to the qualifications, functions or duties of a person holding
5 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
6 evidences present or potential unfitness of a person holding a license, certificate or permit to
7 perform the functions authorized by the license, certificate or permit in a manner consistent with
8 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
9 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
10 violation of, or conspiring to violate any provision of the Medical Practice Act.”

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Conviction of a Crime Substantially Related to the Qualifications,
13 Functions, or Duties of a Physician and Surgeon)**

14 10. Respondent has subjected his Physician’s and Surgeon’s Certificate No. A99173 to
15 disciplinary action under sections 2227 and 2234, as defined by section 2236, subdivision (a), of
16 the Code, in that he has been convicted of a crime substantially related to the qualifications,
17 functions, or duties of a physician and surgeon, as more particularly alleged hereinafter:

18 **The December 18, 2013 Conviction**

19 A. On or about Monday, March 11, 2013, at approximately 0115
20 hours, California Highway Patrol (CHP) Officer R.Z. was driving northbound in a
21 marked black and white CHP patrol vehicle on Interstate 15, south of State Route
22 210, at approximately 65 mph in the number two lane, in San Bernadino County.
23 At this approximate time and location, a black Hyundai Elantra driving in the
24 number one lane passed Officer R.Z. at a high rate of speed. Officer R.Z. then
25 accelerated his patrol vehicle and matched the speed of the Hyundai, while
26 obtaining a pace of approximately 80 mph. Consequently, Officer R.Z. initiated
27 an enforcement stop of the Hyundai for speeding. Officer R.Z. then contacted the
28 driver, who he positively identified by a California Driver’s License with matching

1 photograph as the respondent. While speaking with the respondent, who was still
2 seated in the driver's seat, Officer R.Z. smelled the strong and distinct odor of an
3 alcoholic beverage emitting from within the Hyundai. Officer R.Z. then had
4 respondent exit the Hyundai and walk to the back of the patrol vehicle, at which
5 time Officer R.Z. observed respondent was unbalanced as he walked.

6 B. At approximately 0126 hours, Officer C.S. responded to the
7 location of the enforcement stop and discussed with Officer R.Z. the probable
8 cause for the stop and Officer R.Z.'s initial observations of respondent following
9 the stop. Following this discussion, Officer C.S. then contacted respondent and
10 asked him a series of pre-field sobriety test questions. During his questioning,
11 respondent told Officer C.S. that he had started drinking alcohol earlier in the
12 evening (Sunday, March 10, 2014) at "7:00 p.m." and then stopped drinking at
13 "11:00 p.m." Respondent further stated that the alcohol he had consumed was
14 three (3) "Grey Goose" and one (1) "beer." Officer C.S. then asked respondent if
15 he was feeling the effects of the alcohol, to which respondent replied, "a little
16 tipsy, but not out of control." During his questioning of respondent, Officer C.S.
17 noted the strong and distinct odor of an alcoholic beverage on respondent's breath,
18 his speech was heavily slurred, and, that his eyes were red and watery.

19 C. Based upon respondent's statements and objective symptoms,
20 including, strong odor of alcohol emanating from his breath, slurred speech, and
21 red and watery eyes, Officer C.S. administered the following Field Sobriety Tests
22 (FST) to respondent:

23 1) Horizontal Gaze Nystagmus Test: Respondent displayed a
24 lack of smooth pursuit and distinct sustained nystagmus at maximum deviation.
25 Respondent also displayed an onset of nystagmus prior to extremes.

26 2) Rhomberg Balance Test: Respondent swayed in a front to
27 back motion during the test and kept his hands out from his sides approximately
28 three to four inches throughout the test.

1 3) One Leg Stand Test: Respondent put his foot down several
2 times during the test, swayed left to right, and kept his hands out from his sides at
3 approximately forty-five degree angles throughout the test.

4 D. Based upon the facts and totality of the circumstances, including,
5 respondent's admission that he had been drinking alcohol earlier that evening; his
6 driving pattern; his objective signs of impairment; and respondent's performance
7 on the FSTs, Officer C.S. arrested respondent at 0146 hours for violation of
8 Vehicle Code section 23152, subdivision (a). Respondent chose to take a breath
9 test and subsequently gave two breath samples. Approximately ninety (90)
10 minutes after respondent was stopped for speeding, at 0243 hours, respondent's
11 Blood Alcohol Content (BAC) level measured 0.17 percent; and again, at 0244
12 hours, his BAC measured 0.17 percent. At 0315 hours, respondent also provided a
13 blood sample that was later tested and measured respondent's BAC at 0.17
14 percent.

15 E. On or about December 4, 2013, Senior Investigator Zellmer (SI
16 Zellmer) of the Medical Board of California interviewed respondent at the Board's
17 district office in San Bernadino. During the interview, respondent explained to SI
18 Zellmer that he and his wife had gone to a concert at the Fox Theatre in Pomona
19 the evening before his arrest. Respondent stated that they had arrived at the theatre
20 at approximately "4:00 (p.m.)" at which time he consumed "probably about two or
21 three martinis ... ate some nachos ... then during the concert probably had another
22 two or three martinis." Respondent further stated that he attended a private party
23 after the concert at which time he "drank a little more, probably another two or
24 three, I don't know, and got in my car ... I was drunk, but obviously the alcohol
25 made me think I could do anything."

26 F. On or about December 18, 2013, in the Superior Court of
27 California, County of San Bernadino, in the case of *The People of the State of*
28 *California v. Deron Jean Tessier*, Superior Court Case No. TVA-1300853,

1 respondent was convicted of Vehicle Code Section 23152, subdivision (b).²

2 Respondent was sentenced to probation for three years, required to enroll in a three
3 (3) month first offender alcohol program, and ordered to pay fines totaling
4 \$1,877.00.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Use of Alcoholic Beverages in a Dangerous Manner)**

7 11. Respondent has further subjected his Physician's and Surgeon's Certificate No.
8 A99173 to disciplinary action under sections 2227 and 2234, as defined by section 2239,
9 subdivision (a), of the Code, in that he used alcoholic beverages, to the extent, or in such a
10 manner as to be dangerous or injurious to respondent, or to any other person or to the public, as
11 more particularly alleged in paragraph 10, above, which is hereby incorporated by reference and
12 realleged as if fully set forth herein.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(General Unprofessional Conduct)**

15 12. Respondent has further subjected his Physician's and Surgeon's Certificate No.
16 A99173 to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the
17 Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical
18 profession, or conduct which is unbecoming a member in good standing of the medical
19 profession, and which demonstrates an unfitness to practice medicine, as more particularly
20 alleged in paragraph 10, above, which is hereby incorporated by reference and realleged as if
21 fully set forth herein.

22 **PRAYER**

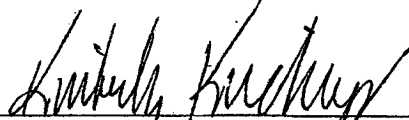
23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Medical Board of California issue a decision:

25 1. Revoking or suspending Physician's and Surgeon's Certificate No. A99173, issued to
26 respondent Deron Jean Tessier, M.D.;

27
28 ² Respondent entered a plea of nolo contendere to Count 2.

- 1 2. Revoking, suspending or denying approval of respondent Deron Jean Tessier, M.D.'s
2 authority to supervise physician assistants, pursuant to section 3527 of the Code;
3 3. Ordering respondent Deron Jean Tessier, M.D. to pay the Medical Board of
4 California the reasonable costs of probation monitoring, if placed on probation; and
5 4. Taking such other and further action as deemed necessary and proper.

6
7 DATED: February 12, 2014


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

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