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

In the Matter of the Accusation Against: **ROY OTTO RESNIKOFF, M.D.** **1104 Pearl Street** **La Jolla, CA 92037** **Physician's and Surgeon's Certificate No. G23495,** Respondent.	Case No. 800-2017-035147 **DEFAULT DECISION AND ORDER** [Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about November 5, 2018, Complainant Kimberly Kirchmeyer, in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Accusation No. 800-2017-035147 against Roy Otto Resnikoff, M.D. (Respondent) before the Medical Board of California.

2. On or about October 6, 1972, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G23495 to Respondent. Physician's and Surgeon's Certificate No. G23495 was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2019, unless renewed. A true and correct copy of the

Certificate of Licensure is attached as Exhibit A to the accompanying Default Decision Evidence Packet."[1]

3. On or about October 15, 2018, following a noticed hearing, an Order Granting Noticed Petition for Interim Suspension Order was issued by the Office of Administrative Hearings, San Diego, immediately suspending Physician's and Surgeon's Certificate No. G23495, and prohibiting Respondent from practicing medicine in the State of California. A true and correct copy of the Order Granting Noticed Petition for Interim Suspension Order is attached as Exhibit B.

4. On or about November 5, 2018, Dianne Richards, an employee of the Complainant Agency, served by Certified Mail a copy of Accusation No. 800-2017-035147, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 1104 Pearl Street, La Jolla, CA 92037. A true and correct copy of Accusation No. 800-2017-035147, the related documents, and Declaration of Service are attached as Exhibit C.

5. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

6. On or about November 21, 2018, Valeria Guerrero, an employee of the Office of the Attorney General, served by Certified and First Class Mail a Courtesy Notice of Default along with a copy of Accusation No. 800-2017-035147, and the related documents to Respondent's address of record with the Board, 1104 Pearl Street, La Jolla, CA 92037. The aforementioned documents were also served by Certified and First Class Mail to Respondent's last known address, 7164 Eads Avenue, La Jolla, CA 92037. A copy of the Courtesy Notice of Default, the copy of Accusation No. 800-2017-035147, the related documents, and the Declaration of Service are attached as Exhibit D.

7. To date, Respondent has not filed a Notice of Defense, nor has the Attorney General's office received returned mail that was sent to Respondent. (Exhibit E, Declaration of Deputy Attorney General Christine A. Rhee, ¶ 6.)

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[1] All exhibits are true and correct copies of the originals, and are attached to the accompanying Default Decision Evidence Packet. The Default Decision and Evidence Packet is hereby incorporated by reference, in its entirety, as if fully set forth herein.

8. Government Code section 11506 states, in pertinent part:

"...

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

"..."

9. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation (Exhibit E, ¶ 6), and therefore waived his right to a hearing on the merits of Accusation No. 800-2017-035147.

10. Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

"..."

11. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A through F, finds that the allegations in Accusation No. 800-2017-035147 are true and correct.

12. Business and Professions Code section 822 states, in pertinent part:

"If a licensing agency determines that its licentiate's ability to practice his or her professional safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

"(a) Revoking the licentiate's certificate or license."

"..."

13. Respondent has subjected his Physician's and Surgeon's Certificate No. G23495 to action by reason of the following:

a. On or about July 28, 2017, the Board received a complaint from a family member of Respondent regarding Respondent's mental health. (Exhibit F, Declaration of Lucila Gojny in Support of Petition for Interim Suspension Order, ¶ 2.)

b. On or about July 28, 2017, the Board received documents from two psychiatrists and a psychologist who examined Respondent in or around January and February 2017. After Respondent submitted to a comprehensive medical and psychiatric evaluation which included cognitive testing, psychiatrists D.S. and K.V. found that Respondent's clinical evaluation and history were consistent with a diagnosis of dementia. Psychologist J.M. examined Respondent and opined that Respondent's testing suggested the presence of a major neurocognitive disorder. Exhibit F, ¶¶ 4-7.)

c. According to the Letters of Conservatorship of the Person under the Lanterman-Petris-Short Act and an Order Appointing Conservator of the Person dated September 26, 2017, Respondent was deemed a gravely disabled person, being unable to provide for his basic personal needs for food, clothing or shelter. A public conservator was appointed as Respondent's conservator and remained in effect until September 26, 2018. (Exhibit F, ¶ 8.)

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Roy Otto Resnikoff, M.D., has subjected his Physician's and Surgeon's Certificate No. G23495 to action pursuant to Business and Professions Code section 822.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. Pursuant to the authority under Government Code section 11520, and based on the evidence before it, the Board hereby finds that the cause for action contained in Accusation No.

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800-2017-035147, and the Findings of Fact contained in paragraphs 1 through 13, above, and each of them, separately and severally, are true and correct.

5. Pursuant to its authority under Government Code section 11520, and by reason of the Findings of Fact contained in paragraphs 1 through 13, above, and Determination of Issues 1 through 4, above, the Board hereby finds that Respondent Roy Otto Resnikoff, M.D.'s Physician's and Surgeon's Certificate No. G23495 is subject to action in that:

a. Respondent's ability to practice medicine safely is impaired due to a mental illness affecting competency.

ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G23495, heretofore issued to Respondent Roy Otto Resnikoff, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 8, 2019.

It is so ORDERED January 9, 2019

FOR THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
Kimberly Kirchmeyer
Executive Director

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO NOV 5 2018
BY D. Richards ANALYST

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

In the Matter of the Accusation Against: **ROY OTTO RESNIKOFF, M.D.** **1104 Pearl Street** **La Jolla, CA 92037** **Physician's and Surgeon's Certificate No. G23495,** Respondent.	Case No. 800-2017-035147 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about October 6, 1972, the Medical Board issued Physician's and Surgeon's Certificate Number G23495 to Roy Otto Resnikoff, M.D. (Respondent). Physician's and Surgeon's Certificate No. G23495 was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2019, unless renewed.

3. On October 15, 2018, an Order Granting Noticed Petition for Interim Suspension Order was issued, immediately suspending Respondent's Physician's and Surgeon's Certificate No. G23495, and prohibiting Respondent from practicing medicine in the State of California. Respondent remains suspended from the practice of medicine as of the date of the filing of this Accusation.

JURISDICTION

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

5. Section 2227 of the Code states, in pertinent part:

"(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.

"..."

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6. Section 822 of the Code states:

"If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

"(a) Revoking the licentiate's certificate or license.

"(b) Suspending the licentiate's right to practice.

"(c) Placing the licentiate on probation.

"(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

"The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

SECTION 822 CAUSE FOR ACTION

(Mental Illness Affecting Competency)

7. Respondent is subject to action under section 822 of the Code in that his ability to practice medicine safely is impaired due to mental illness affecting competency, as more particularly alleged hereinafter:

8. On or about July 28, 2017, the Board received a complaint from a family member of Respondent regarding Respondent's mental health.

9. On or about July 28, 2017, the Board received documents from two psychiatrists and a psychologist who examined Respondent in or around January and February 2017. After Respondent submitted to a comprehensive medical and psychiatric evaluation which included cognitive testing, psychiatrists D.S. and K.V. found that Respondent's clinical evaluation and history were consistent with a diagnosis of dementia. Psychologist J.M. examined Respondent and opined that Respondent's testing suggested the presence of a major neurocognitive disorder.

10. According to the Letters of Conservatorship of the Person under the Lanterman-Petris-Short Act and an Order Appointing Conservator of the Person dated September 26, 2017, Respondent was deemed a gravely disabled person, being unable to provide for his basic personal needs for food, clothing or shelter. A public conservator was appointed as Respondent's conservator and remained in effect until September 26, 2018.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. G23495, issued to Respondent Roy Otto Resnikoff, M.D.;

2. Revoking, suspending or denying approval of Respondent Roy Otto Resnikoff, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Roy Otto Resnikoff, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: November 5, 2018

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

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