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8 *Attorneys for Complainant*

9
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. 800-2017-034956

14 **SUTTON NICOLE MENEZES, M.D.**
15 **PO Box 992150**
Redding, CA 96099

DEFAULT DECISION
AND ORDER

16 **Physician's and Surgeon's Certificate**
17 **No. A 54673**

[Gov. Code, §11520]

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On October 3, 2019, Complainant Kimberly Kirchmeyer,¹ in her then official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs, filed Accusation No. 800-2017-034956 against Sutton Nicole Menezes, M.D.
23 (Respondent) before the Medical Board of California. A true and correct copy of the Accusation,
24 Related Documents, and declaration of Service is attached as Exhibit 1 to the separate
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26
27 ¹ Kimberly Kirchmeyer became the Director of the Department of Consumer Affairs on
28 October 28, 2019. Christine J. Lally is the Interim Executive Director of the California Medical
Board.

1 accompanying "Default Decision Evidence Packet" and incorporated herein by reference as if
2 fully set forth herein.²

3 2. On September 13, 1995, the Medical Board of California (Board) issued Physician's
4 and Surgeon's Certificate No. A 54673 to Respondent. The Physician's and Surgeon's Certificate
5 expired on April 30, 2017, and has not been renewed. (Exhibit 2).

6 3. On October 3, 2019, Respondent was served by certified mail a copy of Accusation
7 No. 800-2017-034956, together with true and correct copies of all other statutorily required
8 documents, at her address of record on file with the Board which was and is: PO Box 992150,
9 Redding, CA 96099. The Respondent was also served by certified mail at her alternative address
10 of 200 Trophy Court, West Sacramento, CA 95605. (Exhibit 1). On October 4, 2019, the
11 aforementioned documents were delivered to the West Sacramento address listed above and
12 signed by an occupant of the residence. That occupant has the same last name as the Respondent.
13 The U.S. Post Office retained a copy of the return receipt envelope. (Exhibit 3). Service of the
14 Accusation was effective as a matter of law under the provisions of Government Code section
15 11505, subdivision (c).

16 4. On November 18, 2019, the Attorney General's Office sent a Courtesy Notice of
17 Default via certified mail to Respondent's address of record and her alternative address. (Exhibit
18 4). On November 20, 2019, the Courtesy Notice of Default packet was delivered to West
19 Sacramento address and was again signed by the same occupant who accepted the Accusation
20 packet. (Exhibit 5).

21 5. Government Code section 11506 states, in pertinent part:

22 (c) The respondent shall be entitled to a hearing on the merits if the respondent
23 files a notice of defense, and the notice shall be deemed a specific denial of all parts
24 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.

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27 ² The exhibits referred to herein, which are true and correct copies of the originals, are
28 contained in the separate accompanying "Default Decision Evidence Packet" and will be
identified by "Exhibit" followed by the specific number.

1 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
2 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 800-
3 2017-034956.

4 7. California Government Code section 11520 states, in pertinent part:

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

8 8. Pursuant to its authority under Government Code section 11520, the Board finds
9 Respondent is in default. The Board will take action without further hearing and, based on
10 Respondent's express admissions by way of default and the evidence before it as contained in the
11 separate accompanying "Default Decision Evidence Packet," finds that the charges and
12 allegations in Accusation No. 800-2017-034956, and each of them, separately and severably, are
13 true and correct.

14 JURISDICTION

15 9. Section 822 of the Code states:

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

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

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

21 (c) Placing the licentiate on probation.

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

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

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1 10. Section 118 of the Code states:

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3 (a) The withdrawal of an application for a license after it has been filed with a board
4 in the department shall not, unless the board has consented in writing to such withdrawal,
5 deprive the board of its authority to institute or continue a proceeding against the applicant
6 for the denial of the license upon any ground provided by law or to enter an order denying
7 the license upon any such ground.

8 (b) The suspension, expiration, or forfeiture by operation of law of a license issued by
9 a board in the department, or its suspension, forfeiture, or cancellation by order of the
10 board or by order of a court of law, or its surrender without the written consent of the
11 board, shall not, during any period in which it may be renewed, restored, reissued, or
12 reinstated, deprive the board of its authority to institute or continue a disciplinary
13 proceeding against the licensee upon any ground provided by law or to enter an order
14 suspending or revoking the license or otherwise taking disciplinary action against the
15 licensee on any such ground.

16 (c) As used in this section, "board" includes an individual who is authorized by any
17 provision of this code to issue, suspend, or revoke a license, and "license" includes
18 "certificate," "registration," and "permit."

19 **BUSINESS AND PROFESSIONS CODE SECTION 822 CAUSE OF ACTION**

20 11. Respondent's Physician's and Surgeon's Certificate No. A 54673 is subject to action
21 under section 822 of the Code in that her ability to practice medicine safely is impaired because
22 she is mentally ill, or physical ill affecting competency, as more particularly alleged hereinafter:

23 (a) On or about May 30, 2016, Respondent was in a serious motor vehicle accident
24 that left her with a traumatic brain injury. Respondent has been under the care of a
25 doctor since then. (Exhibit 6).

26 (b) On or about April 30, 2017, Respondent's Physician's and Surgeon's
27 Certificate No. A 54673 expired as a result of her continued medical issues.

28 (c) On or about June 5, 2019, Respondent's primary care physician, Dr. J.H., wrote
a letter describing Respondent's current medical condition. Namely, Respondent
suffers from cognitive and neurobehavioral dysfunction following her brain injury.
Dr. J.H. opines that Respondent has a physical and mental condition that affects her
ability to practice medicine. (Exhibit 7).

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Sutton Nicole Menezes, M.D.,
3 has subjected her Physician's and Surgeon's Certificate No. A 54673 to discipline.

4 2. Pursuant to its authority under California Government Code section 11520, and based
5 on the evidence before it, the Board hereby finds that the charges and allegations contained in
6 Accusation No. 800-2017-034956, and the Findings of Fact contained in paragraphs 1 through 11,
7 above, and each of them, separately and severally, are true and correct.

8 3. Pursuant to its authority under California Government Code section 11520, and by
9 reason of the Findings of Fact contained in paragraphs 1 through 11, above, and Determination of
10 Issues 1 and 2, above, the Board hereby finds that Respondent Sutton Nicole Menezes, M.D., has
11 subjected her Physician's and Surgeon's Certificate No. A 54673 to disciplinary action under
12 California Business and Professions Code section 822 in that her ability to practice medicine
13 safely is impaired because she is mentally ill, or physical ill affecting competency. See Exhibits 6
14 and 7 attached hereto and incorporated herein.

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1 ORDER

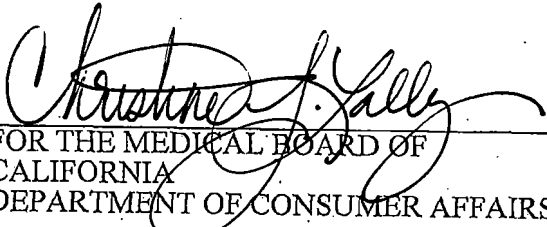
2 IT IS HEREBY ORDERED that:

3 Physician's and Surgeon's Certificate No. A 54673, heretofore issued by the Board to
4 Respondent Sutton Nicole Menezes, M.D., is hereby revoked for each of the violations,
5 separately and severally, of California Business and Professions Code found in the Determination
6 of Issues, above.

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

11 This Decision shall become effective on January 17, 2020 at 5:00 p.m.

12 It is so ORDERED December 19, 2019

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16 FOR THE MEDICAL BOARD OF
17 CALIFORNIA
18 DEPARTMENT OF CONSUMER AFFAIRS
19 CHRISTINE J. LALLY
20 INTERIM EXECUTIVE DIRECTOR

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23 Attachment:

24 Default Decision Evidence Packet

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27 SA2019104355
28 33870859.docx

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct. 3 20 19
BY [Signature] ANALYST

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11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 800-2017-034956

15 **Sutton Nicole Menezes, M.D.**
P.O. Box 992150
Redding, CA 96099

ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. A 54673,**

Respondent.

18
19 Complainant alleges:
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21 **PARTIES**

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

25 2. On or about September 13, 1995, the Medical Board issued Physician's and
26 Surgeon's Certificate No. A 54673 to Sutton Nicole Menezes, M.D. (Respondent). The
27 Physician's and Surgeon's Certificate expired on April 30, 2017, and has not been renewed.
28

1 JURISDICTION

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

5 4. Section 822 of the Code states:

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

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

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

12 (c) Placing the licentiate on probation.

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

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

20 CAUSE FOR ACTION

21 **(Mental Illness and/or Physical Illness Affecting Competency)**

22 5. Respondent's Physician's and Surgeon's Certificate No. A 54673 is subject to action
23 under section 822 of the Code in that her ability to practice medicine safely is impaired because
24 she is mentally ill, or physical ill affecting competency, as more particularly alleged hereinafter:

25 6. On or about May 30, 2016, Respondent was in a serious motor vehicle accident that
26 left her with a traumatic brain injury. Respondent has been under the care of a doctor since then.

27 7. On or about April 30, 2017, Respondent's Physician's and Surgeon's Certificate No.
28 A 54673 expired as a result of her continued medical issues.

8. On or about June 5, 2019, Respondent's primary care physician, Dr. J.H., wrote a
letter describing Respondent's current medical condition. Namely, Respondent suffers from

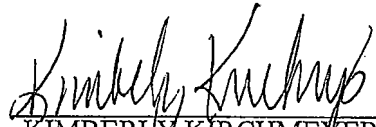
1 cognitive and neurobehavioral dysfunction following her brain injury. Dr. J.H. opines that
2 Respondent has a physical and mental condition that affects her ability to practice medicine.

3 **PRAYER**

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

- 6 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 54673, issued
7 to Respondent Sutton Nicole Menezes, M.D.;
- 8 2. Revoking, suspending or denying approval of Respondent Sutton Nicole Menezes,
9 M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 10 3. Ordering Respondent Sutton Nicole Menezes, M.D. to pay the Medical Board of
11 California, if placed on probation, the costs of probation monitoring;
- 12 4. Taking action authorized by section 822 of the Code as the Medical Board, in its
13 discretion, deems necessary and proper; and
- 14 5. Taking such other and further action as deemed necessary and proper.

15
16 DATED: October 3, 2019



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

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