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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb. 6 20 19
BY [Signature] ANALYST

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

13 In the Matter of the Accusation Against:
14 **RENEE M. DUPONT, M.D.**
15 **1011 Devonshire Dr Ste G**
Encinitas, CA 92024
16 **Physician's and Surgeon's Certificate**
17 **No. A42799,**
18 Respondent.

Case No. 800-2016-025039
A C C U S A T I O N

19
20 Complainant alleges:

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 June 23, 1986, the Medical Board issued Physician's and Surgeon's
26 Certificate No. A42799 to Renee M. Dupont, M.D. (Respondent). Physician's and Surgeon's
27 Certificate No. A42799 was in full force and effect at all times relevant to the charges brought
28 herein and will expire on March 31, 2020, unless renewed.

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 2227 of the Code states, in pertinent part:

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

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

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

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

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

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

21 “...”

22 5. Section 2234 of the Code, states, in pertinent part:

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

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

28 “...”

1 6. Unprofessional conduct under Business and Professions Code section 2234 is conduct
2 which breaches the rules or ethical code of the medical profession, or conduct which is
3 unbecoming to a member in good standing of the medical profession, and which demonstrates an
4 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
5 575.)

6 7. Section 2236 of the Code states, in pertinent part:

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

11 “... ”

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

16 8. Section 2239 of the Code states:

17 “(a) The use or prescribing for or administering to himself or herself, of any
18 controlled substance; or the use of any of the dangerous drugs specified in Section
19 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
20 or injurious to the licensee, or to any other person or to the public, or to the extent that
21 such use impairs the ability of the licensee to practice medicine safely or more than one
22 misdemeanor or any felony involving the use, consumption, or self-administration of
23 any of the substances referred to in this section, or any combination thereof, constitutes
24 unprofessional conduct. The record of the conviction is conclusive evidence of such
25 unprofessional conduct.

26 “(b) A plea or verdict of guilty or a conviction following a plea of nolo
27 contendere is deemed to be a conviction within the meaning of this section. The
28 Medical Board may order discipline of the licensee in accordance with Section 2227 or

1 the Medical Board may order the denial of the license when the time for appeal has
2 elapsed or the judgment of conviction has been affirmed on appeal or when an order
3 granting probation is made suspending imposition of sentence, irrespective of a
4 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
5 such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
6 setting aside the verdict of guilty, or dismissing the accusation, complaint, information,
7 or indictment.”

8 9. California Code of Regulations, title 16, section 1360, states:

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

19 **FIRST CAUSE FOR DISCIPLINE**

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

21 10. Respondent has subjected her Physician’s and Surgeon’s Certificate No. A42799 to
22 disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, in that
23 she has been convicted of a crime substantially related to the qualifications, functions, or duties of
24 a physician and surgeon, as more particularly alleged hereinafter:

25 11. On or about July 19, 2016 at approximately 1819 hours, San Diego Sheriff’s
26 Department Deputy C. saw Respondent’s car fail to properly stop at a stop sign. Deputy C.
27 followed Respondent, and observed Respondent’s car fail to maintain its lane of travel and stop
28 without cause on the road.

1 12. Deputy C. stopped Respondent's car, and Deputy M.P. interviewed Respondent.
2 Deputy M.P. asked Respondent how many drinks she had that day, and Respondent answered that
3 she had scotch. Respondent told Deputy M.P. that she thought she had two drinks.

4 13. Deputy M.P. checked Respondent's eyes for possible gaze nystagmus. He observed
5 that Respondent's eyes were bloodshot and watery, and that Respondent's eyes could not
6 smoothly follow the horizontal movement of his finger from side to side.

7 14. Deputy M.P. attempted to have Respondent perform field coordination tests. Because
8 Respondent had a difficult time maintaining her balance and standing, Deputy M.P. did not have
9 Respondent complete some of the tests.

10 15. Respondent was taken into custody, and she provided a blood sample at
11 approximately 2022 hours. The reported blood alcohol concentration for Respondent's blood
12 sample was 0.22 g/100 mL.

13 16. On or about August 9, 2016, in *The People of the State of California v. Renee Marie*
14 *Dupont*, San Diego Superior Court Case No. CN362702, Respondent was charged with the
15 following: (1) driving under the influence of an alcoholic beverage, a violation of Vehicle Code
16 section 23152, subdivision (a); and (2) driving while having 0.08 percent and more, by weight, of
17 alcohol in her blood, a violation of Vehicle Code section 23152, subdivision (b). It was further
18 alleged that Respondent had a blood alcohol concentration of 0.15 percent or more, pursuant to
19 Vehicle Code section 23578.

20 17. On or about September 23, 2016, Respondent pleaded guilty to one count of a
21 violation of Vehicle Code section 23152, subdivision (b), with the enhancement of Vehicle Code
22 section 23578. Respondent admitted to driving a vehicle while having a blood alcohol level
23 above 0.15 percent.

24 18. Respondent was sentenced to five (5) years summary probation with 30 days' custody
25 suspended pending successful completion of probation. Other terms and conditions of
26 Respondent's probation included the First Conviction Program, the MADD Program, 30 hours of
27 volunteer work, the standard alcohol conditions, and fines.

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SECOND CAUSE FOR DISCIPLINE

(Use of Alcoholic Beverages to the Extent, or in a Manner, as to be Dangerous to Respondent, Another Person, or the Public)

19. Respondent has further subjected her Physician's and Surgeon's Certificate No. A42799 to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that she used, or administered to herself, alcoholic beverages to the extent, or in such a manner, as to be dangerous or injurious to herself, another person, or the public, as more particularly alleged in paragraphs 11 through 18, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE
(Unprofessional Conduct)

20. Respondent has further subjected her Physician's and Surgeon's Certificate No. A42799 to disciplinary action under sections 2227 and 2234, of the Code, in that she committed general unprofessional conduct, as more particularly alleged in paragraphs 11 through 19, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

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. A42799, issued to Respondent Renee M. Dupont, M.D.;
2. Revoking, suspending or denying approval of Respondent Renee M. Dupont, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;
3. Ordering Respondent Renee M. Dupont, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: February 6, 2019


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

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