

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 ROSEMARY F. LUZON  
Deputy Attorney General  
4 State Bar No. 221544  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9074  
7 Facsimile: (619) 645-2061

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. 800-2015-018023

13 **NENITA FLORES ITURZAETA, M.D.**  
14 **987 Montague Circle**  
15 **Corona, CA 92879**

**DEFAULT DECISION**  
**AND ORDER**

16 **Physician's and Surgeon's Certificate**  
**No. A 31024**

[Gov. Code, §11520]

17 Respondent.

18  
19 **FINDINGS OF FACT**

20 1. On or about December 22, 2016, Complainant Kimberly Kirchmeyer, in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs, filed Accusation No. 800-2015-018023 against Nenita Flores Iturzaeta, M.D.  
23 (Respondent) before the Medical Board of California. A true and correct copy of Accusation No.  
24 800-2015-018023 is attached as Exhibit 1 to the separate accompanying "Default Decision  
25 Evidence Packet" and is incorporated by reference as if fully set forth herein.

26 2. On or about April 26, 1977, the Medical Board of California (Board) issued  
27 Physician's and Surgeon's Certificate No. A 31024 to Respondent. The Physician's and  
28 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought

1 herein and expired on November 30, 2016, and has not been renewed. On or about November 29,  
2 2016, an Interim Order of Suspension was granted in *In the Matter of the Petition for Interim*  
3 *Suspension Order Against Nenita Flores Iturzaeta, M.D.*, Case No. 800 2015 018023 (OAH No.  
4 2016110465), suspending Physician's and Surgeon's Certificate No. A 31024 issued to  
5 Respondent pending a full administrative determination of Respondent's fitness to practice  
6 medicine. (Exhibit 2.)

7 3. On or about December 22, 2016, Rozana Firdaus, an employee of the Medical Board,  
8 served a true and correct copy of the Accusation No. 800-2015-018023, Statement to Respondent,  
9 Notice of Defense, Request for Discovery, and California Government Code sections 11507.5,  
10 11507.6, and 11507.7 by certified mail to Respondent's address of record with the Board, which  
11 was and is 987 Montague Circle, Corona, California 92879. (Exhibit 3.) In the abundance of  
12 caution, the foregoing documents were also served by certified mail to an alternate address  
13 provided to the Office of Administrative Hearings by the U.S. Postal Service (*i.e.*, P.O. Box 1405,  
14 Riverside, California 92502-1405). (Exhibit 3.) On or about December 28, 2016, the U.S. Postal  
15 Service attempted delivery of the aforementioned documents to Respondent's address of record  
16 and left a notice of the attempted delivery because no authorized recipient was available. On or  
17 about December 28, 2016, the aforementioned documents were picked up from the alternate  
18 address. (Exhibit 4.)

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

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

22 "...

23 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files  
24 a notice of defense or notice of participation, and the notice shall be deemed a specific  
25 denial of all parts of the accusation or District Statement of Reduction in Force not  
26 expressly admitted. Failure to file a notice of defense or notice of participation shall  
27 constitute a waiver of respondent's right to a hearing, but the agency in its discretion may  
28 nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of

1 subdivision (a), all objections to the form of the accusation or District Statement of  
2 Reduction in Force shall be deemed waived.

3 "..."

4 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
5 a true and correct copy of Accusation No. 800-2015-018023, and therefore waived her right to a  
6 hearing on the merits of Accusation No. 800-2015-018023. (Exhibit 5.)

7 7. On or about January 19, 2017, Maria G. Stawarz, an employee of the Office of the  
8 Attorney General, served a Courtesy Notice of Default for Accusation No. 800-2015-018023, by  
9 regular mail to Respondent's address of record, which was and is 987 Montague Circle, Corona,  
10 California 92879, and to the alternate address provided to the Office of Administrative Hearings  
11 by the U.S. Postal Service (*i.e.*, P.O. Box 1405, Riverside, California 92502-1405). (Exhibit 5.)  
12 The Courtesy Notice of Default attached a copy of the Accusation and Notice of Defense  
13 previously served upon Respondent and advised Respondent that if she failed to take action to file  
14 a Notice of Defense by January 27, 2017, the Board would enter a Default Decision against her  
15 license which may be revoked or suspended without any hearing. (Exhibit 5.)

16 8. To date, Respondent has failed to file a Notice of Defense or give any notice to  
17 Complainant of her intent to contest the Accusation. (Exhibit 5.)

18 9. California Government Code section 11520 states, in pertinent part:

19 "(a) If the respondent either fails to file a notice of defense, or, as applicable, notice  
20 of participation, or to appear at the hearing, the agency may take action based upon the  
21 respondent's express admissions or upon other evidence and affidavits may be used as  
22 evidence without any notice to respondent; and where the burden of proof is on the  
23 respondent to establish that the respondent is entitled to the agency action sought, the  
24 agency may act without taking evidence.

25 "..."

26 10. Pursuant to its authority under California Government Code section 11520, the Board  
27 hereby finds Respondent is in default. The Board will take action without further hearing and,  
28 based on Respondent's express admissions by way of default and the evidence before it as

1 contained in the Default Decision Evidence Packet, hereby finds that the allegations and each of  
2 them, separate and severally, in Accusation No. 800-2015-018023 are true and correct.

3 11. California Business and Professions Code section 820 states:

4 "Whenever it appears that any person holding a license, certificate or permit under  
5 this division or under any initiative act referred to in this division may be unable to practice  
6 his or her profession safely because the licentiate's ability to practice is impaired due to  
7 mental illness, or physical illness affecting competency, the licensing agency may order the  
8 licentiate to be examined by one or more physicians and surgeons or psychologists  
9 designated by the agency. The report of the examiners shall be made available to the  
10 licentiate and may be received as direct evidence in proceedings conducted pursuant to  
11 Section 822."

12 12. California Business and Professions Code section 822 states:

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

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

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

18 "(c) Placing the licentiate on probation.

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

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

25 13. California Business and Professions Code section 824 states:

26 "The licensing agency may proceed against a licentiate under either Section 820, or  
27 822, or under both sections."

28 ///

1 14. California Business and Professions Code section 118 states, in pertinent part:

2 "...

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

10 "...

11 15. Respondent has subjected her Physician's and Surgeon's Certificate No. A 31024 to  
12 action by reason of the following:

13 a. Respondent is an eighty-eight year old physician and surgeon who has been  
14 employed by Su Clinica Medica, a family practice located in San Bernardino, California.

15 b. On or about September 15, 2016, Respondent attended a neuropsychological  
16 examination with Travis Fogel, Ph.D., ABPP-CN. Based on the examination, Dr. Fogel opined,  
17 *inter alia*, that Respondent suffers from significant impairments in her neuropsychological  
18 functioning, including, but not limited to: difficulty learning new information; memory  
19 problems; confusion; anosognosia, or lack of awareness or appreciation of her current cognitive  
20 impairments or their functional impact; inaccurate recounting of her personal history, including  
21 recent events; and reliance on others to provide substantial assistance in her daily activities.  
22 Based on his findings, Dr. Fogel opined that Respondent's neuropsychological impairments  
23 preclude her from being able to safely practice medicine. (Exhibit 6.)

24 **DETERMINATION OF ISSUES**

25 1. Based on the foregoing Findings of Fact, Respondent Nenita Flores Iturzaeta, M.D.  
26 has subjected her Physician's and Surgeon's Certificate No. A 31024 to action.

27 2. The Board has jurisdiction to adjudicate this matter by default.

28 ///

1           3. Pursuant to the authority under California Government Code section 11520, and  
2 based on the evidence before it, the Board hereby finds that the charges and allegations contained  
3 in Accusation No. 800-2015-018023, and the Findings of Fact contained in paragraphs 1 through  
4 15, above, and each of them, separately and severally, are true and correct.

5           4. Pursuant to its authority under California Government Code section 11520, and by  
6 reason of the Findings of Fact contained in paragraphs 1 through 15, above, and Determination of  
7 Issues 1, 2 and 3, above, the Board hereby finds that Respondent Nenita Flores Iturzaeta, M.D.  
8 has subjected her Physician's and Surgeon's Certificate No. A 31024 to action under California  
9 Business and Professions Code section 822 in that her ability to practice medicine safely is  
10 impaired because she is mentally ill, or physically ill affecting competency.

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**ORDER**

**IT IS HEREBY ORDERED** that:

Physician's and Surgeon's Certificate No. A 31024, heretofore issued to Respondent Nenita Flores Iturzaeta, M.D., is revoked pursuant to California Business and Professions Code section 822 as set forth in the Determination of Issues, above.

Pursuant to California 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 March 24, 2017.

It is so ORDERED February 24, 2017.



FOR THE MEDICAL BOARD OF CALIFORNIA  
KIMBERLY KIRCHMEYER  
EXECUTIVE DIRECTOR

Attachment:

Default Decision Evidence Packet

SD2016702882  
81580111.doc

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 ROSEMARY F. LUZON  
Deputy Attorney General  
4 State Bar No. 221544  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9074  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Dec. 22 20 16  
BY R. Firdaus ANALYST

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

12 In the Matter of the Accusation Against:

Case No. 800-2015-018023

13 **NENITA FLORES ITURZAETA, M.D.**  
14 **987 Montague Circle**  
**Corona, CA 92879**

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

15 **Physician's and Surgeon's Certificate**  
16 **No. A 31024,**

17 Respondent.

18  
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 April 26, 1977, the Medical Board issued Physician's and Surgeon's  
25 Certificate No. A 31024 to Nenita Flores Iturzaeta, 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 expired on November 30, 2016, and has not been renewed.

28 ///

JURISDICTION

1  
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 118, subdivision (b), of the Code provides in pertinent part that the expiration  
6 or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
7 disciplinary action during the period within which the license may be renewed, restored, reissued  
8 or reinstated.

9       5.     Section 820 of the Code states:

10            “Whenever it appears that any person holding a license, certificate or permit under  
11 this division or under any initiative act referred to in this division may be unable to practice  
12 his or her profession safely because the licentiate’s ability to practice is impaired due to  
13 mental illness, or physical illness affecting competency, the licensing agency may order the  
14 licentiate to be examined by one or more physicians and surgeons or psychologists  
15 designated by the agency. The report of the examiners shall be made available to the  
16 licentiate and may be received as direct evidence in proceedings conducted pursuant to  
17 Section 822.”

18       6.     Section 822 of the Code states:

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

22            “(a) Revoking the licentiate’s certificate or license.

23            “(b) Suspending the licentiate’s right to practice.

24            “(c) Placing the licentiate on probation.

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

27            “The licensing section shall not reinstate a revoked or suspended certificate or license  
28 until it has received competent evidence of the absence or control of the condition which

1 caused its action and until it is satisfied that with due regard for the public health and  
2 safety the person's right to practice his or her profession may be safely reinstated."

3 7. Section 824 of the Code states:

4 "The licensing agency may proceed against a licentiate under either Section 820, or  
5 822, or under both sections."

6 **SECTION 822 CAUSE FOR ACTION**

7 **(Mental or Physical Illness Affecting Competency)**

8 8. Respondent's Physician's and Surgeon's Certificate No. A 31024 is subject to action  
9 under section 822 of the Code in that her ability to practice medicine safely is impaired because  
10 she is mentally ill, or physically ill affecting competency, as more particularly alleged hereinafter:

11 9. Respondent is an eighty-eight year old physician and surgeon who has been employed  
12 by Su Clinica Medica, a family practice located in San Bernardino, California.

13 10. On or about September 15, 2016, Respondent attended a neuropsychological  
14 examination with T.F., Ph.D., ABPP-CN. Based on the examination, Dr. F. opined, *inter alia*,  
15 that Respondent suffers from significant impairments in her neuropsychological functioning,  
16 including, but not limited to: difficulty learning new information; memory problems; confusion;  
17 anosognosia, or lack of awareness or appreciation of her current cognitive impairments or their  
18 functional impact; inaccurate recounting of her personal history, including recent events; and  
19 reliance on others to provide substantial assistance in her daily activities. According to Dr. F.,  
20 Respondent's neuropsychological impairments preclude her from being able to safely practice  
21 medicine.

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:

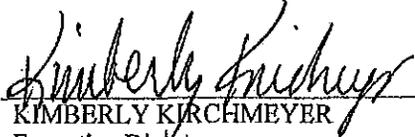
25 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 31024, issued to  
26 Respondent Nenita Flores Iturzaeta, M.D.;

27 2. Revoking, suspending or denying approval of Respondent Nenita Flores Iturzaeta,  
28 M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

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- 3. Taking action as authorized by section 822 of the Code as the Medical Board, in its discretion, deems necessary and proper; and
- 4. Taking such other and further action as deemed necessary and proper.

DATED: December 22, 2016

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
State of California  
*Complainant*

SD2016702882  
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