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7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 05-2010-206979

11 **DONNA LYNN FLYNN, M.D. (aka**  
12 **DONNA MARENO)**  
13 **P.O. Box 2115**  
**Simi Valley, CA 93062**

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

[Gov. Code, §11520.]

14 **Physician's and Surgeon's Certificate No.**  
15 **G80223**

16 Respondent.

17  
18 FINDINGS OF FACT

19 1. On or about May 18, 2011, Complainant Linda K. Whitney, in her official capacity as  
20 the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed  
21 Accusation No. 05-2010-206979 against Donna Lynn Flynn, M.D. (Respondent) before the  
22 Medical Board of California.

23 2. On or about November 9, 1994, the Medical Board of California (Board) issued  
24 Physician's and Surgeon's Certificate No. G80223 to Respondent. The Physician's and Surgeon's  
25 Certificate expired on July 31, 2010, and has not been renewed. A true and correct copy of the  
26 license certification is attached here as Exhibit A.  
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1 206979; Statement to Respondent; Request for Discovery; Government Code sections 11507.5,  
2 11507.6 and 11455.10; Notice of Defense Forms (2 copies); Manual of Disciplinary Orders and  
3 Model Disciplinary Guidelines; and Notification Regarding Costs associated with specific  
4 courses or Programs. Ms. Montalbano served the above documents by United States Postal  
5 Service (U.S. Postal Service) certified return receipt at Respondent's address of record, which is  
6 P.O. Box 2115, Simi Valley, California 93062. A copy of the Accusation, the related documents,  
7 and Declaration of Service are attached as Exhibit B, and are incorporated here by reference.

8 4. On or about June 6, 2011, the documents described in paragraph 3 above were  
9 returned by the U.S. Postal Service marked "Not Deliverable as Addressed Unable to Forward."  
10 A copy of the envelope is attached as Exhibit D, and is incorporated here by reference.

11 5. On or about May 18, 2011, Kelly Montalbano, an employee of the Board, served  
12 Respondent at an alternate address known to the Board with copies of the following: Accusation  
13 No. 05-2010-206979; Statement to Respondent; Request for Discovery; Government Code  
14 sections 11507.5, 11507.6 and 11455.10; Notice of Defense Forms (2 copies); Manual of  
15 Disciplinary Orders and Model Disciplinary Guidelines; and Notification Regarding Costs  
16 associated with specific courses or Programs. Ms. Montalbano served the above documents by  
17 U.S. Postal Service certified return receipt at Respondent's alternate address, which was Loop  
18 Motor Lodge, 3135 East Main Street, Room 105, Ventura, California 93003. A copy of the  
19 Accusation, the related documents, and Declaration of Service are attached as Exhibit C, and are  
20 incorporated here by reference.

21 6. On or about May 26, 2011, the documents described in paragraph 5 above were  
22 returned by the U.S. Postal Service marked "Not Deliverable as Addressed Unable to Forward."  
23 A copy of the envelope is attached as Exhibit E, and is incorporated here by reference.

24 7. Given the fact that the Board was aware that actual notice of the filing of the  
25 Accusation might not have been achieved at the Respondent's address of record or her alternate  
26 address, on or about July 7, 2011, Medical Board Investigator Amber Driscoll personally served  
27 Donna Lynn Flynn, M.D. with a copy of each of the following: Accusation No. 05-2010-206979;  
28 Statement to Respondent; Request for Discovery; Discovery Statutes; Notice of Defense Forms (2

1 copies); Manual of Disciplinary Orders and Model Disciplinary Guidelines; and Notification  
2 Regarding Costs associated with specific courses or Programs on Respondent and Respondent's  
3 then-current address, which was the Ventura Inn, 487 East Main Street, Room 306, Ventura,  
4 California 93001. (**Exhibit F:** Declaration of Amber Driscoll, ¶13, Exhibit D.) A copy of the  
5 Accusation, the related documents, and Declaration of Service are attached as Exhibit D to the  
6 Declaration of Amber Driscoll, Exhibit F, and are incorporated here by reference.

7 8. Service of the Accusation was effective as a matter of law under the provisions of  
8 Government Code section 11505, subdivision (c). The Board has gone above and beyond the  
9 requirements of Government Code section 11505, subdivision (c), by ensuring the actual delivery  
10 of the Accusation and related documents on Respondent, in addition to attempting to serve  
11 Respondent at her address of record. Business and Professions Code section 2021, subdivision  
12 (b),<sup>1</sup> requires that Respondent report all changes of address of record to the Board. The Board  
13 received notice, on July 27, 2010, that Respondent's address of record was possibly invalid.  
14 (**Exhibit F:** Dec. Driscoll, Exh. B.)

15 9. Business and Professions Code section 118 states, in pertinent part:

16 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a  
17 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by  
18 order of a court of law, or its surrender without the written consent of the board, shall not, during  
19 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
20 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
21 provided by law or to enter an order suspending or revoking the license or otherwise taking  
22 disciplinary action against the license on any such ground." Respondent may renew her  
23 physician's and surgeon's certificate for a period of five years from the date that her license  
24 expired (i.e. until July 31, 2015). (Bus. & Prof. Code, § 2427, subd. (a).) (**Exhibit A.**)

25 10. Government Code section 11506 states, in pertinent part:

26 <sup>1</sup> Business and Professions Code section 2021 states, in relevant part, as follows: "(b)  
27 Each licensee shall report to the board each and every change of address within 30 days after each  
28 change, giving both the old and new address."



1           16. The Medical Board of California is authorized to revoke Respondent's Physician's  
2 and Surgeon's Certificate based upon the following violations alleged in the Accusation.

3           A. On or about December 10, 2010, the Executive Director of the Medical Board  
4 of California, pursuant to section 820 of the Business and Professions Code, ordered and  
5 compelled Respondent to submit to a physical examination and a psychiatric examination,  
6 including psychological testing, by a psychologist and/or by one or more physicians and surgeons  
7 in order to determine whether she was impaired due to a physical and/or mental illness that  
8 affects her competency to safely practice medicine. (**Exhibit F:** Dec. Driscoll, ¶ 10, Exhibit C.)  
9 Respondent was personally served with the Board's Order on December 16, 2010 after various  
10 unsuccessful attempts at service at her address of record. (**Exhibit F:** Dec. Driscoll, ¶ 10.)  
11 Respondent was ordered to submit to the physical and mental examinations not later than thirty  
12 (30) days from the date of the service of the Order. (**Exhibit F:** Dec. Driscoll, Exhibit C.)  
13 Respondent acknowledged her receipt of the Board's Order on December 29, 2010. (**Exhibit F:**  
14 Dec. Driscoll, ¶ 11.)

15           B. Respondent refused to submit to the psychiatric examination ordered by the  
16 Board. Specifically, the psychiatric examination, described in paragraph A above, was scheduled  
17 to take place on January 5, 2011, at 8:45 a.m. An expert was chosen by the Board, pursuant to  
18 Business and Professions Code section 820 *et seq.*, to examine the Respondent. (**Exhibit F:** Dec.  
19 Driscoll, ¶11.) Respondent acknowledged her receipt of the Board's notice of the time, place and  
20 date of the scheduled psychiatric examination. (**Exhibit F:** Dec. Driscoll, ¶11.) Respondent  
21 advised Driscoll that she did not intend to present herself for the psychiatric examination.  
22 (**Exhibit F:** Dec. Driscoll, ¶11.) Respondent was advised that her failure to present herself for the  
23 ordered examination was unprofessional conduct and constituted grounds for the suspension or  
24 revocation of her physician's and surgeon's certificate.

25           17. Respondent is subject to disciplinary action because she has failed to submit to the  
26 psychiatric examination ordered by the Medical Board on December 10, 2010, issued pursuant to  
27 Business and Professions Code section 820 *et seq.* Respondent's failure to present herself for her  
28 psychiatric examination caused the Board to file its Accusation against Respondent, which it

1 personally served on her on July 7, 2011. (**Exhibit F:** Dec. Driscoll, Exhibit D.) The allegations  
2 in the Accusation, as substantiated by the attached delcarations, provide the basis for revocation  
3 of Respondent's medical license, pursuant to Business and Profession Code sections 2234,  
4 subdivision (a), 820 and 821 of the Code. (**Exhibit B.**) The circumstances of Respondent's  
5 failure to comply with the Board's Order are set forth in the Declarations of Amber Driscoll and  
6 Gloria L. Castro, which are attached here as **Exhibits F and G** respectively.

7 ORDER

8 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G80223, heretofore  
9 issued to Respondent Donna Lynn Flynn, M.D., is revoked.

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

14 This Decision shall become effective on October 28, 2011.

15 It is so ORDERED September 30, 2011

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FOR THE MEDICAL BOARD OF CALIFORNIA

19 DEPARTMENT OF CONSUMER AFFAIRS

20 Linda K. Whitney  
21 Executive Director

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO MAY 13 20 11  
BY: K. MONTALBANO ANALYST

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9 **MEDICAL BOARD OF CALIFORNIA**  
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12 **DONNA LYNN FLYNN, M.D. (aka**  
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14 **P.O. Box 2115**  
**Simi Valley, CA 93062**  
15 **Physician's and Surgeon's Certificate No.**  
16 **G80223**  
17 Respondent.

Case No. 05-2010-206979

**ACCUSATION**

18 Complainant alleges:

19 **PARTIES**

- 20 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs.  
22 2. On or about November 9, 1994, the Medical Board of California issued Physician's  
23 and Surgeon's Certificate Number G80223 to Donna Lynn Flynn, M.D. (Respondent). The  
24 Physician's and Surgeon's Certificate expired on July 31, 2010, and has not been renewed. The  
25 license was delinquent and in effect at all times relevant to the charges brought here.

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**JURISDICTION**

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

5           4.     Section 2234 of the Code states:

6           "The Division of Medical Quality<sup>1</sup> shall take action against any licensee who is charged  
7 with unprofessional conduct. In addition to other provisions of this article, unprofessional  
8 conduct includes, but is not limited to, the following:

9           "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting  
10 the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical  
11 Practice Act].

12           "(b) Gross negligence.

13           "(c) Repeated negligent acts. To be repeated, there must be two or more negligent  
14 acts or omissions. An initial negligent act or omission followed by a separate and distinct  
15 departure from the applicable standard of care shall constitute repeated negligent acts.

16           "(1) An initial negligent diagnosis followed by an act or omission medically  
17 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

18           "(2) When the standard of care requires a change in the diagnosis, act, or omission  
19 that constitutes the negligent act described in paragraph (1), including, but not limited to, a  
20 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
21 applicable standard of care, each departure constitutes a separate and distinct breach of the  
22 standard of care.

23           "(d) Incompetence.

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26           <sup>1</sup> Business and Professions Code section 2002, effective January 1, 2008, provides that,  
27 unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act  
28 (Bus. & Prof. Code, § 2000 et seq.) means the "Medical Board of California," and references to  
the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision  
of law shall be deemed to refer to the Board.



1           "(e) The commission of any act involving dishonesty or corruption which is  
2 substantially related to the qualifications, functions, or duties of a physician and surgeon.

3           "(f) Any action or conduct which would have warranted the denial of a certificate."

4           5.     Section 820 of the Code states:

5           "Whenever it appears that any person holding a license, certificate or permit under this  
6 division or under any initiative act referred to in this division may be unable to practice his or her  
7 profession safely because the licentiate's ability to practice is impaired due to mental illness, or  
8 physical illness affecting competency, the licensing agency may order the licentiate to be  
9 examined by one or more physicians and surgeons or psychologists designated by the agency.

10          The report of the examiners shall be made available to the licentiate and may be received as direct  
11 evidence in proceedings conducted pursuant to Section 822."

12          6.     Section 821 of the Code states:

13          "The licentiate's failure to comply with an order issued under Section 820 shall constitute  
14 grounds for the suspension or revocation of the licentiate's certificate or license."

15          7.     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 affecting  
18 competency, the licensing agency may take action by any one of the 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."

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

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8. Section 824 of the Code states:

“The licensing agency may proceed against a licentiate under Sections 820, or 822, or both.”

9. Section 825 of the Code states:

“As used in this article with reference to persons holding licenses as physicians and surgeons, "licensing agency" means a panel of the Division of Medical Quality.”

10. Section 826 of the Code states:

“The proceedings under Sections 821 and 822 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the licensing agency and the licentiate shall have all the rights and powers granted therein.”

**FIRST CAUSE FOR DISCIPLINE**

(Violation of Business and Professions Code Section 821)

11. Respondent is subject to disciplinary action under Business and Professions Code section 821 in that she has failed to submit to a psychiatric examination ordered by the Medical Board. The circumstances are as follows:

12. On or about December 10, 2010, the Executive Director of the Medical Board of California (“Board”), pursuant to section 820 of the Code, ordered and compelled Respondent to submit to a physical examination and a psychiatric examination (“the Order”), including psychological testing, by a psychologist and/or by one or more physicians and surgeons in order to determine whether she is impaired due to a physical and/or mental illness that affects her competency to safely practice medicine. Respondent was ordered to submit to the physical and mental examinations not later than thirty (30) days from the date of the service of the Order. Respondent was served with a copy of the Board’s Order on December 16, 2010. Respondent refused to submit to the psychiatric examination ordered by the Board as described in paragraph 13 below.

13. The psychiatric examination, described in paragraph 12 above, was scheduled to take place on January 5, 2011. The examiner, a psychiatrist, was designated and chosen by the Board, pursuant to Business and Professions Code section 820 et seq., to examine the

1 Respondent. On December 29, 2010, Respondent acknowledged her receipt of the Board's notice  
2 of the time, place and date of the scheduled psychiatric examination. Respondent advised the  
3 Board that she did not intend to present herself for the psychiatric examination, and did not in fact  
4 present herself for the ordered examination.

5 14. Respondent's failure to present herself for her psychiatric examination provides the  
6 basis for revocation of Respondent's medical license.

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Unprofessional Conduct)

9 15. By reason of the matters alleged in paragraphs 11 to 14 above, Respondent is subject  
10 to disciplinary action under section 2234 of the Business and Professions in that she has failed to  
11 submit to a psychiatric examination as ordered by the Board.

12 **PRAYER**

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

- 15 1. Revoking or suspending Physician's and Surgeon's Certificate Number G80223  
16 issued to Donna Lynn Flynn, M.D.
- 17 2. Revoking, suspending or denying approval of Donna Lynn Flynn, M.D.'s authority  
18 to supervise physician's assistants, pursuant to section 3527 of the Code;
- 19 3. Ordering Donna Lynn Flynn, M.D. to pay the Medical Board of California the  
20 costs of probation monitoring, if he is placed on probation;
- 21 4. Taking such other and further action as deemed necessary and proper, including  
22 but not limited to the following, if deemed necessary under the circumstances:

23 A. Requiring the licentiate to pass an oral, written, practical, or clinical  
24 examination, or any combination thereof to determine her present fitness to engage in the  
25 practice of her profession.

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B. Restricting or limiting the extent, scope or type of practice of the licentiate.

DATED: May 18, 2011

*A. Renee Threadgill*

LINDA K. WHITNEY  
Executive Director

Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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