

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

In the Matter of Accusation Against:	)	
	)	
<b>BARNETT S. SALZMAN, M.D.</b>	)	<b>MBC No. 08-2011-219861</b>
	)	
Physician's & Surgeon's	)	
Certificate No. G 12176	)	
	)	
	)	
_____ Petitioner.	)	


**ORDER DENYING PETITION FOR RECONSIDERATION**

The Petition filed by Petitioner, Barnett S. Salzman, M.D. for reconsideration of the decision in the above-entitled matter having been read and considered by the Medical Board of California, is hereby denied.

This Decision remains effective at 5:00 p.m. on **October 15, 2014.**

IT IS SO ORDERED: **October 6, 2014.**

MEDICAL BOARD OF CALIFORNIA

By:   
\_\_\_\_\_  
**DEV GNANADEV, M.D., CHAIR  
PANEL B**

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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. 08-2011-219861

11 **BARNETT S. SALZMAN, M.D.**  
3222 West Menlo Avenue  
12 Fresno, CA 93711

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

13  
14 Physician's and Surgeon's Certificate No. G12176

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about August 12, 2014, Complainant Kimberly Kirchmeyer, in her official  
18 capacity as the Executive Director of the Medical Board of California, filed Accusation No. 08-  
19 2011-219861 against Barnett S. Salzman, M.D. (Respondent).

20 2. On or about August 4, 1966, the Medical Board of California (Board) issued  
21 Physician's and Surgeon's certificate No. G12176 to Respondent. The Physician's and Surgeon's  
22 certificate expired on February 28, 2013, and has not been renewed.

23 3. On or about August 12, 2014, John F. Yelchak, an employee of the Board, served  
24 by Certified Mail a copy of the above referenced Accusation No. 08-2011-219861, Statement to  
25 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,  
26 11507.6, and 11507.7 to Respondent's address of record with the Board. A copy of said  
27 Accusation was also sent by certified mail to 2133 Via Puerta, Unit D, Laguna Woods, CA  
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1 92637, which was an address where the United States Postal Service stated that respondent was  
2 receiving mail. Said Accusation was based upon Respondent's failure or refusal to submit to an  
3 ordered psychiatric examination and was filed pursuant to Business and Professions Code section  
4 821. A copy of the Accusation, the related documents, and Declaration of Service are attached as  
5 exhibit A, and are incorporated herein by reference.

6 4. Service of the Accusation was effective as a matter of law under the provisions of  
7 Government Code section 11505, subdivision (c), and Business and Professions Code section  
8 124.

9 5. On August 27, 2014, a Courtesy Notice of Default was sent by certified and U.S.  
10 mail to Respondent's address of record and to the address provided by the U.S. Postal Service. A  
11 copy of the Notice and proof of service are attached as Exhibit B, and are incorporated herein by  
12 reference.

13 6. Respondent failed to file a Notice of Defense within 15 days after service upon  
14 him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
15 No. 08-2011-219861.

#### 16 **STATUTORY AUTHORITY**

17 7. Business and Professions Code section 820 authorizes the Medical Board to  
18 compel a mental and/or physical examination when it appears that a physician may suffer from a  
19 mental illness or a physical illness affecting the physician's competency to practice medicine  
20 safely.

21 8. Business and Professions Code section 821 authorizes the Board to suspend or  
22 revoke the license of a physician who fails or refuses to comply with an order compelling mental  
23 and/or physical examination.

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

25 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a  
26 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by  
27 order of a court of law, or its surrender without the written consent of the board, shall not, during  
28 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its

1 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
2 provided by law or to enter an order suspending or revoking the license or otherwise taking  
3 disciplinary action against the license on any such ground."

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

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

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

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

13 12. Pursuant to its authority under Government Code section 11520, the Board finds  
14 that Respondent is in default. The Board will take action without further hearing and, based on  
15 Respondent's express admissions by way of his failure to comply with the order of examination  
16 and his default and the evidence before it, the Board finds that the allegations in the Accusation  
17 are true.

#### 18 **DETERMINATION OF ISSUES**

19 1. Based on the foregoing findings of fact, Respondent Barnett S. Salzman, M.D. has  
20 subjected his Physician's and Surgeon's certificate No. G12176 to discipline.

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

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

24 4. The Medical Board of California is authorized to revoke Respondent's Physician's  
25 and Surgeon's Certificate based upon the following violations alleged in the Accusation:  
26 "Respondent's Physician and Surgeon's Certificate No. G12176 is subject to disciplinary action  
27 pursuant to section 2234 and/or section 821 in that Respondent has failed to comply with the  
28 Order issued pursuant to section 820 . . ."

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**ORDER**

IT IS ORDERED that Physician and Surgeon's Certificate No. G12176 heretofore issued to respondent Karl Nicholes, 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 October 15, 2014.

It is so ORDERED September 16, 2014

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

Attachments:

Exhibit A: Accusation No. 08-2011-219861 and Declaration of Service

Exhibit B: Notice of Default and Proof of Service

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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO August 12, 2014  
BY: J. [Signature] ANALYST

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

12 In the Matter of the Accusation Against:

Case No. 08-2011-219861

13 **BARNETT S. SALZMAN, M.D.**  
14 3222 West Menlo Avenue  
15 Fresno, CA 93711

**ACCUSATION**

Physician's and Surgeon's Certificate No. G12176

Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
19 capacity as the Executive Director of the Medical Board of California (Board).

20 2. On August 4, 1966, the Medical Board of California issued Physician's and  
21 Surgeon's Certificate Number G12176 to Barnett S. Salzman, M.D. (Respondent). Said license  
22 expired on February 28, 2013, and unless renewed will be cancelled on February 28, 2018.

23 **JURISDICTION**

24 3. This Accusation is brought before the Medical Board of California, under the  
25 authority of the following laws. All references are to the Business and Professions Code unless  
26 otherwise specified.  
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1           4.     Section 2227 of the Business and Professions Code provides that a licensee who is  
2 found guilty under the Medical Practice Act may have his or her license revoked, suspended for a  
3 period not to exceed one year, placed on probation and required to pay the costs of probation  
4 monitoring, or such other action taken in relation to discipline as the Board deems proper.

5           5.     Section 2234 of the Code provides in relevant part that the Board “shall take action  
6 against any licensee who is charged with unprofessional conduct.”

7           6.     Section 820 provides as follows:

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

15           7.     Section 821 provides that the licentiate's failure to comply with an order issued under  
16 Section 820 shall constitute grounds for suspension or revocation of the licentiate's certificate or  
17 license.

#### 18                                     FACTS

19           8.     On March 11, 2014, the Executive Director of the Medical Board of California filed a  
20 Petition to Compel Psychiatric Examination pursuant to Business and Professions Code §820.

21           9.     On March 18, 2014, the Medical Board granted the Petition and issued its Order  
22 Compelling Psychiatric Examination. Said Order was served together with an instructional letter,  
23 at Respondent’s address of record, to wit: 3222 West Menlo Avenue, Fresno, CA 93711. The  
24 Order and instructional letter advised Respondent that, in order to comply with the Order of the  
25 Board, he was required to contact the Medical Board District Office in Fresno, California, and it  
26 further advised that he was required to comply with the Order and to undergo the required  
27 examination within 30 days of the date of the Order.

1 10. Service upon Respondent's address of record with the Board constituted valid service  
2 upon Respondent. The United States Post Office (USPS) provided documentation that the order  
3 was in fact delivered to Respondent at a forwarding address on April 15, 2014, but he did not  
4 respond.

5 11. On July 3, 2014, the Board's investigator sent further correspondence directed to  
6 Respondent at the forwarding address. That correspondence advised that Respondent had failed  
7 to comply with an order of the Board and that his immediate action was required or disciplinary  
8 action would follow. The correspondence was returned by the USPS as refused by the addressee.

9 12. As of the date of this Accusation, Respondent has not contacted the Board's District  
10 Office and he has failed and refused to comply with the Order of examination.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct/Failure to Comply with Order of Examination)**

13 13. Respondent's Physician's and Surgeon's Certificate No. G12176 is subject to  
14 disciplinary action pursuant to section 2234 and section 821 of the Code in that Respondent has  
15 failed to comply with the Order issued pursuant to section 820, as set forth above.

16 **PRAAYER**

17 WHEREFORE, complainant prays that a hearing be held and that the Board issue an order:

- 18 1. Revoking or suspending Physician's and Surgeon's Certificate No. G12176, issued to  
19 Barnett S. Salzman, M.D.;
- 20 2. Prohibiting Barnett S. Salzman, M.D., from supervising a Physician's Assistant;
- 21 3. Ordering Barnett S. Salzman, M.D., if placed on probation, to pay the costs of  
22 probation monitoring.
- 23 4. Taking such other and further action as may be deemed proper and appropriate.

24 DATED: August 12, 2014

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

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