

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

**In the Matter of the Third Amended )  
Accusation and Petition to Revoke )  
Probation Against: )  
 )  
ROBERT T. PEREZ, M.D. )  
 )  
Physician's and Surgeon's )  
Certificate No. G80178 )  
 )  
Respondent )  
\_\_\_\_\_ )**

**Case No. 800-2014-007888**

**DECISION**

**The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on May 1, 2019.**

**IT IS SO ORDERED April 24, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

By: \_\_\_\_\_

**Kimberly Kirchmeyer  
Executive Director**

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 CHRIS LEONG  
Deputy Attorney General  
4 State Bar No. 141079  
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5 300 So. Spring Street, Suite 1702  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation/Petition to  
Revoke Probation Against:

12 ROBERT T. PEREZ, M.D.  
13 1420 E. Edinger Avenue, Suite 123  
Santa Ana, CA 92705

14 Physician's and Surgeon's Certificate No.  
15 G 80178

16 Respondent.

Case No. 800-2014-007888

OAH No. 2017110857

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Xavier Becerra, Attorney General of the State of California, by Chris Leong,  
24 Deputy Attorney General.

25 2. Robert T. Perez, M.D. (Respondent) is representing himself in this proceeding and  
26 has chosen not to exercise his right to be represented by counsel.

27 3. On November 2, 1994, the Board issued Physician's and Surgeon's Certificate  
28 No. G 80178 to Respondent. The Physician's and Surgeon's Certificate was in full force and

1 effect at all times relevant to the charges brought in the Third Amended Accusation/Petition to  
2 Revoke Probation No. 800-2014-007888 and will expire on February 29, 2020, unless renewed.

3 4. On November 8, 2017, in a disciplinary action entitled *In the Matter of Accusation*  
4 *Against Robert T. Perez, M.D.*, Medical Board Case No. 04-2013-234367 the Board issued a  
5 Decision effective December 8, 2017, in which Respondent's Physician and Surgeon's Certificate  
6 was revoked. However, the revocation was stayed and Respondent's Certificate was placed on  
7 probation for a period of thirty-five (35) months with certain terms and conditions. A copy of  
8 that Decision is attached as Exhibit A and is incorporated by reference.

9 5. On August 27, 2018, in an action entitled *In the Matter of the Petition for Interim*  
10 *Suspension Order Against Robert T. Perez, M.D.*, Medical Board Case No. 800-2018-043020, an  
11 Administrative Law Judge issued an Order on Noticed Petition for Order of Interim Suspension,  
12 effective August 27, 2018, in which Respondent's Physician and Surgeon's Certificate was  
13 suspended. A copy of that Decision is attached as Exhibit B and is incorporated by reference

#### 14 JURISDICTION

15 6. Third Amended Accusation/Petition to Revoke Probation No. 800-2014-007888 was  
16 filed before the (Board), and is currently pending against Respondent. The original Accusation  
17 Probation and all other statutorily required documents were properly served on Respondent on  
18 August 22, 2017. Respondent timely filed his Notice of Defense contesting the Accusation. A  
19 copy of the current pleading, the Third Accusation/Petition to Revoke Probation,  
20 No. 800-2014-007888 is attached as Exhibit C and incorporated by reference.

#### 21 ADVISEMENT AND WAIVERS

22 7. Respondent has carefully read, and understands the charges and allegations in the  
23 Third Amended Accusation/Petition to Revoke Probation No. 800-2014-007888. Respondent  
24 also has carefully read, and understands the effects of this Stipulated Surrender of License and  
25 Order.

26 8. Respondent is fully aware of his legal rights in this matter, including the right to a  
27 hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; the right  
28 to confront and cross-examine the witnesses against him; the right to present evidence and to

1 testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of  
2 witnesses and the production of documents; the right to reconsideration and court review of an  
3 adverse decision; and all other rights accorded by the California Administrative Procedure Act  
4 and other applicable laws.

5 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
6 every right set forth above.

#### 7 CULPABILITY

8 10. Respondent understands that the charges and allegations in Third Amended  
9 Accusation/Petition to Revoke Probation No. 800-2014-007888, if proven at a hearing, constitute  
10 cause for imposing discipline upon his Physician's and Surgeon's Certificate.

11 11. For the purpose of resolving the Third Amended Accusation/Petition to Revoke  
12 Probation without the expense and uncertainty of further proceedings, Respondent agrees that, at  
13 a hearing, Complainant could establish a factual basis for the charges in the Third Amended  
14 Accusation/Petition to Revoke Probation and that those charges constitute cause for discipline.  
15 Respondent hereby gives up his right to contest that cause for discipline exists based on those  
16 charges.

17 12. Respondent understands that by signing this stipulation he enables the Board to issue  
18 an order accepting the surrender of his Physician's and Surgeon's Certificate without further  
19 process.

#### 20 CONTINGENCY

21 13. This stipulation shall be subject to approval by the Board. Respondent understands  
22 and agrees that counsel for Complainant and the staff of the Board may communicate directly  
23 with the Board regarding this stipulation and surrender, without notice to or participation by  
24 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he  
25 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board  
26 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,  
27 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this  
28 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not

1 be disqualified from further action by having considered this matter.

2 14. The parties understand and agree that Portable Document Format (PDF) and facsimile  
3 copies of this Stipulated Surrender of License and Order, including Portable Document Format  
4 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

5 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
6 the Board may, without further notice or formal proceeding, issue and enter the following Order:

7 **ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 80178, issued  
9 to Respondent Robert T. Perez, M.D., is surrendered and accepted by the Medical Board of  
10 California.

11 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the  
12 acceptance of the surrendered license by the Board shall constitute the imposition of discipline  
13 against Respondent. This stipulation constitutes a record of the discipline and shall become a part  
14 of Respondent's license history with the Medical Board of California.

15 2. Respondent shall lose all rights and privileges as a physician and surgeon in  
16 California as of the effective date of the Board's Decision and Order.

17 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was  
18 issued, his wall certificate on or before the effective date of the Decision and Order.

19 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
20 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
21 comply with all the laws, regulations and procedures for reinstatement of a revoked or  
22 surrendered license in effect at the time the petition is filed, and all of the charges and allegations  
23 contained in Third Amended Accusation/Petition to Revoke Probation No. 800-2014-007888  
24 shall be deemed to be true, correct and admitted by Respondent when the Board determines  
25 whether to grant or deny the petition.


26 5. If Respondent should ever apply or reapply for a new license or certification, or  
27 petition for reinstatement of a license, by any other health care licensing agency in the State of  
28 California, all of the charges and allegations contained in the Third Amended Accusation/Petition

1 to Revoke Probation, No. 800-2014-007888 shall be deemed to be true, correct, and admitted by  
2 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or  
3 restrict licensure.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Surrender of License and Order. I understand the  
6 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this  
7 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to  
8 be bound by the Decision and Order of the Medical Board of California.

9  
10 DATED: 3/30/19

  
11 ROBERT T. PEREZ, M.D.  
12 Respondent

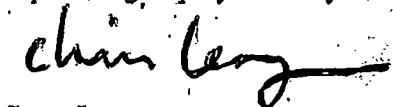
13 ENDORSEMENT

14 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
15 for consideration by the Medical Board of California of the Department of Consumer Affairs.

16 Dated: 4/2/2019

Respectfully submitted,

17 XAVIER BECERRA  
18 Attorney General of California  
19 ROBERT MCKIM BELL  
20 Supervising Deputy Attorney General

  
21 CHRIS LEONG  
22 Deputy Attorney General  
23 Attorneys for Complainant

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**Exhibit A**

**Third Amended Accusation/Petition to Revoke Probation No. 800-2014-007888**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO September 25 2018  
BY R. Fitzgerald ANALYST

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*Attorneys for Complainant*

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

In the Matter of the Accusation and Petition to  
Revoke Probation Against:

ROBERT T. PEREZ, M.D.

1420 E. Edinger Avenue, Suite 123  
Santa Ana, California 92705

Physician's and Surgeon's Certificate G80178,

Respondent.

Case No. 800-2014-007888

**THIRD AMENDED ACCUSATION AND  
PETITION TO REVOKE PROBATION**

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant), brings this Third Amended Accusation and Petition to Revoke Probation solely in her official capacity as Executive Director of the Medical Board of California (Board). This pleading supplants the original Accusation filed in this matter on August 22, 2017 and the First Amended Accusation filed April 5, 2018 and the second Amended Accusation on May 30, 2018.

2. On November 2, 1994, the Board issued Physician's and Surgeon's Certificate Number G80178 to Robert Perez, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2020, unless



1 renewed.

2 3. On November 8, 2017, in a disciplinary action entitled *In the Matter of Accusation*  
3 *Against Robert T. Perez, M.D.*, Medical Board Case No. 04-2013-234367 the Board issued a  
4 Decision effective December 8, 2017, in which Respondent's Physician and Surgeon's Certificate  
5 was revoked. However, the revocation was stayed and Respondent's Certificate was placed on  
6 probation for a period of thirty-five (35) months with certain terms and conditions. A copy of  
7 that Decision is attached as Exhibit A and is incorporated by reference.

8 4. On August 27, 2018, in an action entitled *In the Matter of the Petition for Interim*  
9 *Suspension Order Against Robert T. Perez, M.D.*, Medical Board Case No. 800-2018-043020, an  
10 Administrative Law Judge issued an Order on Noticed Petition for Order of Interim Suspension,  
11 effective August 27, 2018, in which Respondent's Physician and Surgeon's Certificate was  
12 suspended. A copy of that Decision is attached as Exhibit B and is incorporated by reference.

13 **JURISDICTION**

14 5. This Third Amended Accusation and Petition to Revoke Probation is brought before  
15 the Board under the authority of the following laws. All section references are to the Business  
16 and Professions Code (Code) unless otherwise indicated.

17 6. Section 2227 of the Code states, in pertinent part:

18 "(a) A licensee whose matter has been heard by an administrative law judge of the  
19 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or  
20 whose default has been entered, and who is found guilty, or who has entered into a stipulation for  
21 disciplinary action with the Board may, in accordance with the provisions of this chapter:

22 "(1) Have his or her license revoked upon order of the Board.

23 "(2) Have his or her right to practice suspended for a period not to  
24 exceed one year upon order of the Board.

25 "(3) Be placed on probation and be required to pay the costs of  
26 probation monitoring upon order of the Board.

27 "(4) Be publicly reprimanded by the Board.

1                   “(5) Have any other action taken in relation to discipline as the Board or  
2                   an administrative law judge may deem proper.”

3           7. Section 2234 of the Code provides that the Board shall take disciplinary action  
4 against any licensee guilty of unprofessional conduct.

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

9           9. Section 726 of the Code provides:

10           “(a) The commission of any act of sexual abuse, misconduct, or relations with a patient,  
11 client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any  
12 person licensed under this division or under any initiative act referred to in this division.

13           “(b) This section shall not apply to consensual sexual contact between a licensee and his or  
14 her spouse or person in an equivalent domestic relationship when that licensee provides medical  
15 treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent  
16 domestic relationship.”

17           10. Section 729 of the Code states:

18           “(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor  
19 or any person holding himself or herself out to be a physician and surgeon, psychotherapist, or  
20 alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral  
21 copulation, or sexual contact with a patient or client, or with a former patient or client when the  
22 relationship was terminated primarily for the purpose of engaging in those acts, unless the  
23 physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has referred the  
24 patient or client to an independent and objective physician and surgeon, psychotherapist, or  
25 alcohol and drug abuse counselor recommended by a third-party physician and surgeon,  
26 psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual  
27 exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

28    ///

1       "(b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug  
2 abuse counselor is a public offense:

3       "(1) An act in violation of subdivision (a) shall be punishable by imprisonment in a county  
4 jail for a period of not more than six months, or a fine not exceeding one thousand dollars  
5 (\$1,000), or by both that imprisonment and fine.

6       "(2) Multiple acts in violation of subdivision (a) with a single victim, when the offender has  
7 no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county jail  
8 for a period of not more than six months, or a fine not exceeding one thousand dollars (\$1,000),  
9 or by both that imprisonment and fine.

10       "(3) An act or acts in violation of subdivision (a) with two or more victims shall be  
11 punishable by imprisonment in the state prison for a period of 16 months, two years, or three  
12 years, and a fine not exceeding ten thousand dollars (\$10,000); or the act or acts shall be  
13 punishable by imprisonment in a county jail for a period of not more than one year, or a fine not  
14 exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

15       "(4) Two or more acts in violation of subdivision (a) with a single victim, when the  
16 offender has at least one prior conviction for sexual exploitation, shall be punishable by  
17 imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16  
18 months, two years, or three years, and a fine not exceeding ten thousand dollars (\$10,000); or the  
19 act or acts shall be punishable by imprisonment in a county jail for a period of not more than one  
20 year, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and  
21 fine.

22       "(5) An act or acts in violation of subdivision (a) with two or more victims, and the offender  
23 has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment  
24 pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two  
25 years, or three years, and a fine not exceeding ten thousand dollars (\$10,000).

26       "For purposes of subdivision (a), in no instance shall consent of the patient or client be a  
27 defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching  
28

1 any intimate part of a patient or client unless the touching is outside the scope of medical  
2 examination and treatment, or the touching is done for sexual gratification.

3 "(c) For purposes of this section:

4 "(1) 'Psychotherapist' has the same meaning as defined in Section 728.

5 "(2) 'Alcohol and drug abuse counselor' means an individual who holds himself or herself  
6 out to be an alcohol or drug abuse professional or paraprofessional.

7 "(3) 'Sexual contact' means sexual intercourse or the touching of an intimate part of a  
8 patient for the purpose of sexual arousal, gratification, or abuse.

9 "(4) 'Intimate part' and 'touching' have the same meanings as defined in Section 243.4 of  
10 the Penal Code.

11 "(d) In the investigation and prosecution of a violation of this section, no person shall seek  
12 to obtain disclosure of any confidential files of other patients, clients, or former patients or clients  
13 of the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

14 "(e) This section does not apply to sexual contact between a physician and surgeon and his  
15 or her spouse or person in an equivalent domestic relationship when that physician and surgeon  
16 provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person  
17 in an equivalent domestic relationship.

18 "(f) If a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in a  
19 professional partnership or similar group has sexual contact with a patient in violation of this  
20 section, another physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in  
21 the partnership or group shall not be subject to action under this section solely because of the  
22 occurrence of that sexual contact."

23 11. Section 820 of the Code states:

24 "Whenever it appears that any person holding a license, certificate or permit  
25 under this division or under any initiative act referred to in this division may be  
26 unable to practice his or her profession safely because the licentiate's ability to  
27 practice is impaired due to mental illness, or physical illness affecting competency,  
28

1 the licensing agency may order the licensee to be examined by one or more  
2 physicians and surgeons or psychologists designated by the agency. The report of  
3 the examiners shall be made available to the licensee and may be received as direct  
4 evidence in proceedings conducted pursuant to Section 822."

5 12. Section 822 of the Code states:

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

9 "(a) Revoking the licensee's certificate or license.

10 "(b) Suspending the licensee's right to practice.

11 "(c) Placing the licensee on probation.

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

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

19 **FIRST CAUSE FOR DISCIPLINE**

20 (Sexual Exploitation)

21 13. Respondent is subject to disciplinary action under Code section 729 in that he  
22 engaged in sexual exploitation, specifically by engaging in sexual contact with a patient. The  
23 circumstances are as follows:

24 ///

25 ///

26 ///

27 ///

28 ///

1 A. In or around July 2014, the Patient,<sup>1</sup> an adult female, began receiving medical /  
2 psychiatric care from Respondent. On August 14, 2014, Respondent prescribed to the Patient,  
3 Clonazepam, 0.5 mg, # 120, (Prescription No 4429026), with three (3) refills.<sup>2</sup>

4 B. Starting on or about August 2014, Respondent and the Patient began having intimate  
5 sexual contact and the Patient subsequently moved in with Respondent.

6 C. On or about September 11, 2014, Respondent again prescribed to the Patient  
7 Clonazepam, 0.5 mg, # 120, (Prescription No 4429026), with 4 refills.

8 D. Respondent and the Patient were married on September 27, 2014.

9 E. Respondent and the Patient's divorce is currently pending.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Sexual Misconduct)

12 14. By reason of the facts set forth above in the First Cause for Discipline, Respondent is  
13 subject to disciplinary action under Code section 726 for engaging in sexual relations with a  
14 patient.

15 **THIRD CAUSE FOR DISCIPLINE**

16 (Impaired Ability to Practice)

17 15. Respondent, is subject to disciplinary action under Code section 822, in that he is  
18 unable to practice safely due to a mental or physical condition and permitting him to continue to  
19 engage in the practice of medicine will endanger the public health, safety, and welfare. The  
20 circumstances are as follows:

21 A. On May 5, 2015, an Accusation entitled *In the Matter of the Accusation Against*  
22 *Robert T. Perez, M.D.*, Case No. 04-2013-234367, was filed with the Board. The Accusation  
23 contained causes for discipline which included gross negligence (Bus. & Prof. Code, § 2234,

24 <sup>1</sup> "The Patient" is used in lieu of initials in order to protect the patient's privacy.

25 <sup>2</sup> Clonazepam, sold under the brand name Klonopin among others, is a medication used to  
26 prevent and treat seizures, panic disorder, and for the movement disorder known as akathisia. It  
27 is a tranquilizer of the benzodiazepine class. Taken by mouth, it begins having an effect within  
28 an hour and lasts between six and 12 hours. Common side effects include sleepiness, poor  
coordination, and agitation. Long-term use may result in tolerance, dependence, and withdrawal  
symptoms if stopped abruptly. Dependence occurs in one-third of people who take clonazepam  
for longer than four weeks, and it may increase risk of suicide in people who are depressed.

1 subd. (b)), repeated negligent acts (Bus. & Prof. Code, § 2234, subd. (c)), dishonest acts (Bus. &  
2 Prof. Code, § 2234, subd. (e)), failure to maintain adequate and accurate records (Bus. & Prof.  
3 Code, § 2266), and unprofessional conduct (Bus. & Prof. Code, § 2234). The allegations in that  
4 Accusation relate primarily to Respondent's treatment and termination of treatment of another  
5 female patient, and his alleged inappropriate affect and use of inappropriate language toward her,  
6 her husband, her son, her friend, and a Medical Board investigator. In addition, during the course  
7 of treatment, Respondent spoke to the patient regarding events in his personal life, and he refused  
8 to provide her with her clinical records when she and her husband requested them. The  
9 Accusation also alleges Respondent's inappropriate conduct and language toward a former  
10 girlfriend and a Superior Court judge.

11 B. In a Decision effective November 8, 2017, the Board adopted a Stipulated  
12 Settlement and Disciplinary Order in the above-referenced case. According to that settlement,  
13 Respondent's license to practice medicine was revoked. However, the revocation was stayed, and  
14 Respondent was placed on probation for a period of 35 months under various terms and  
15 conditions, including completion of an education course, a prescribing practices course, a  
16 professionalism program (ethics course), and a professional boundaries program. Respondent also  
17 agreed to undergo a psychiatric evaluation.

18 C. The Stipulated Settlement and Disciplinary Order contained the following  
19 clauses:

20 "10. For the purpose of resolving the Accusation without the expense and  
21 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant  
22 could establish a factual basis for the charges in the Accusation, and that Respondent  
23 hereby gives up his right to contest those charges.

24 "11. Respondent agrees that his Physician's and Surgeon's Certificate is  
25 subject to discipline and he agrees to be bound by the Board's probationary terms as set  
26 forth in the Disciplinary Order below.

27 "12. Respondent agrees that if he ever petitions for early termination of  
28 probation or modification of probation, or if the Board ever petitions for revocation of

1 probation, all of the charges and allegations contained in Accusation No. 04-2013-  
2 234367, shall be deemed true, correct and fully admitted by Respondent for purpose of  
3 that proceeding or any other licensing proceeding involving Respondent in the State of  
4 California.”

5 D. On August 22, 2017, an Accusation entitled, *In the Matter of the Accusation*  
6 *Against Robert T. Perez, M.D.*, Case No. 800-2014-007888, was filed with the Board. The  
7 Accusation contained causes for discipline which included sexual exploitation (Bus. & Prof.  
8 Code, § 729), sexual misconduct (Bus. & Prof. Code, § 726), and unprofessional conduct (Bus. &  
9 Prof. Code, § 2234). The gravamen of that Accusation involved Respondent’s alleged romantic  
10 relationship with and subsequent marriage to one of his patients.

11 E. Respondent’s probation monitor sent him to an evaluation by J.G.<sup>3</sup>, M.D., who  
12 was board-certified in internal medicine, addiction medicine, and pain medicine. On January 16,  
13 2018, Dr. J.G. conducted an evaluation of Respondent which included a history and physical.  
14 Based on his conversation with Respondent, J.G. decided that, because some of Respondent’s  
15 statements seemed far-fetched, Respondent was dishonest, that he had “engaged in egregious  
16 violations of professional ethics and conduct,” that he had engaged in behavior “highly  
17 inappropriate for a medical professional,” and therefore, he should not be treating patients.

18 F. On March 8, 2018, Respondent underwent a psychiatric evaluation by R.M.,  
19 M.D., a board-certified psychiatrist. Upon arriving at Dr. R.M.’s office, Respondent disclosed to  
20 Dr. R.M. that the stress of the ongoing process involving his medical license was taking a  
21 physical and emotional toll on him, and that, as of two weeks prior to their meeting, he had taken  
22 steps to close his practice.

23 G. After conducting a psychiatric evaluation, Dr. R.M. wrote a report in which he  
24 found the following with respect to Respondent:

25 “Mental Status Examination.

26 “[Respondent] was casually dressed, and quite cooperative. He was respectful and  
27 even deferential with me to a degree. He displayed neither psychomotor agitation nor

28 <sup>3</sup> Names are reduced to initials for privacy.



1 retardation, and engaged directly with good eye contact without any apparent attempt to  
2 be evasive. A few of his answers were tangential, but this wasn't a consistent occurrence.  
3 He spoke in a normal tone, rate and rhythm, and there was no overt disorganization of  
4 thought. That said, he expressed, as noted above, a set of fixed beliefs that he is the victim  
5 of a great injustice, that he's been exploited by his wife and the MBC, especially the  
6 initial investigator, and that the Board's demands on him are unjustified. Asked directly,  
7 he believes there is no alternative way to explain what has happened, that he could not be  
8 wrong. Asked directly, he does not see this as at all associated with any ethnic prejudice.  
9 There was no evidence of hallucinations. His thought processes were internally consistent  
10 (once one accepts his premises as fact). His mood was anxious, and he was a bit fidgety  
11 on a few occasions. He became tearful at a few moments, appropriate to the content.  
12 Though he is apprehensive about his future, [he] expresses a bland optimism and has no  
13 current thoughts of self-harm, suicide, or harm to others. A formal cognitive screening  
14 was not done, but there was nothing to suggest cognitive impairment.

15 "Diagnosis/Prognosis

16 "Most probably, [Respondent] meets criteria for Paranoid Personality Disorder, and,  
17 possibly, Delusional Disorder as well. Both of these somewhat hinge on whether there is  
18 external credible evidence to support or refute his fixed beliefs. Based on the MBC  
19 information provided me, his beliefs seem to be unfounded, and his rigid inability and/or  
20 unwillingness to consider alternate ideas, in combination with the significant impact on  
21 his emotional state, behavior, and level of functioning all support one or both of these  
22 diagnoses. At this point, he may have some degree of a separate depressive disorder as  
23 well.

24 "Summary and Recommendations

25 "I do not think that [Respondent] is a danger to himself, or to patients, or the public.  
26 He has no history of violence or physical aggression. His isolation and his having minimal  
27 outside supports is a source of concern, but he otherwise has little in the way of the usual  
28 risk factors for imminent risk of harm to self or others.

1            "[Respondent's] ability to practice medicine safely is impaired by his mental  
2 condition, something he himself appears to recognize enough to have taken action to  
3 discontinue his practice. Though that decision could be, in a sense, a way to save face, it is  
4 still in the best interests of all that he not practice now.

5            "I recommend that he continue his psychotherapy, mostly as a way to provide some  
6 emotional support. In general, people with the diagnoses I have assigned to him do not  
7 improve significantly with either psychotherapy or psychotropic medication. That his  
8 symptoms are so intricately intertwined with the MBC and his marital situation make it  
9 unlikely, in my view, that he'll be able to set them aside enough so as to not interfere with  
10 his ability to practice. In other words, I doubt that treatment will restore his health to a  
11 point at which he can be entrusted to practice medicine."

12            H. Dr. R.M. was subsequently provided with a California Department of Justice  
13 Controlled Substance Utilization Review & Evaluation System (CURES) report which indicated  
14 that Respondent was still engaged in the practice of medicine. This prompted Dr. R.M. to write an  
15 addendum to his report which was received on May 25, 2018 in which he stated:

16            "My statement that [Respondent] was not a danger to himself or others was intended  
17 solely to reflect that he had no active suicidal or homicidal thoughts, nor any conscious  
18 intent or wish to harm himself or others, either on its own or as a symptom or a psychiatric  
19 disorder.

20            "Nevertheless, his behavior patterns and current condition do, in my opinion as  
21 stated, do impact his judgment to the extent that he should not be allowed to practice  
22 medicine. The reports of his behaviors with patients and with others are spelled out in the  
23 MBC reports and referred to in my report.

24            "[Respondent] told me, as previously noted, that he had decided to discontinue seeing  
25 patients. To whatever extent he continues to do so, despite what he told me, he does pose  
26 a danger to the public, i.e., his ability to practice medicine safely is significantly  
27 impaired."

1 I. On May 30, 2018, a Second Amended Accusation and Petition to Revoke  
2 Probation entitled *In the Matter of the Second Amended Accusation and Petition to Revoke*  
3 *Probation Against Robert T. Perez, M.D.*, Case No. 800-2014-007888, was filed with the Board.  
4 The Accusation contained causes for discipline which included sexual exploitation (Bus. & Prof.  
5 Code, § 729), sexual misconduct (Bus. & Prof. Code, § 726), and unprofessional conduct (Bus. &  
6 Prof. Code, § 2234), and causes to revoke probation which included failure to participate in  
7 education course, failure to participate in a prescribing practices course, failure to participate in  
8 professionalism program (Ethics Course), failure to participate in professional boundaries  
9 program, and failure to submit quarterly declarations). In the Second Amended Accusation and  
10 Petition to Revoke Probation, the allegations regarding Respondent's romantic relationship with,  
11 and subsequent marriage to, one of his patients was repeated, and several failures to comply with  
12 the terms and conditions of his probation were alleged.

13 J. The filing of the Second Amended Accusation and Petition to Revoke Probation  
14 triggered paragraph 12 of the Settlement Agreement and Disciplinary Order in case number  
15 04-2013-234367. Accordingly, the following charges and allegations are deemed true, correct,  
16 and admitted by stipulation:

17 1. During the course of treatment with a female patient, Respondent discussed  
18 events occurring in his personal life.

19 2. During the course of treatment of the same female patient, Respondent used  
20 inappropriate language that made the patient feel uncomfortable.

21 3. In connection with the termination of treatment by the same patient,  
22 Respondent exhibited inappropriate affect and used inappropriate language toward  
23 the patient, her husband, her son, her friend, and a Medical Board investigator.

24 4. Respondent refused to provide the patient with her clinical records.

25 5. Respondent made false, threatening, and harmful statements regarding his  
26 former girlfriend, thereby exhibiting an unprofessional demeanor, which was  
27 unbecoming to a member in good standing of the medical profession, including:

28 a. Making multiple threats to call the immigration service to have her deported;

- b. Threatening to refuse to pay child support for their daughter;
- c. Threatening to obtain full custody of their daughter;
- d. Making an anonymous tip to the Orange County Police Department to report her for not having a driver's license and for working illegally;
- e. Writing numerous letters of a threatening nature alleging she was mentally ill and suffering from Bipolar Disorder;
- f. Altering her medical records after his last session with her.

#### FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

16. By reason of the facts set forth above in the First Cause for Discipline, Respondent is subject to disciplinary action under section 2234 of the Code for unprofessional conduct in the care and treatment of the Patient.

## FIRST CAUSE TO REVOKE PROBATION

(Failure to Participate in Education Course)

17. Condition 1 of the Board's Decision and Order *In the Matter of Accusation Against Robert T. Perez, M.D.*," Case No. 04-2013-234367, which became effective on December 8, 2017, states:

"EDUCATION COURSE". Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in

1 satisfaction of this condition.”

2 18. Respondent’s probation is subject to revocation because he failed to comply with  
3 Probation Condition 1, referenced above, in that he failed to successfully complete the education  
4 courses. The facts and circumstances regarding this violation are as follows: Respondent failed  
5 to submit educational programs or courses to the Board for its prior approval as required within  
6 60 days of the effective date of the Decision.

7 **SECOND CAUSE TO REVOKE PROBATION**

8 (Failure to Participate in a Prescribing Practices Course)

9 19. Condition 2 of the Board’s Decision and Order *In the Matter of Accusation Against*  
10 *Robert T. Perez, M.D.*,” Case No. 04-2013-234367, which became effective on December 8,  
11 2017, states:

12 “PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of  
13 this Decision, Respondent shall enroll in a course in prescribing practices approved in  
14 advance by the Board or its designee. Respondent shall provide the approved course  
15 provider with any information and documents that the approved course provider may deem  
16 pertinent. Respondent shall participate in and successfully complete the classroom  
17 component of the course not later than six (6) months after Respondent’s initial enrollment.  
18 “Respondent shall successfully complete any other component of the course within one (1)  
19 year of enrollment. The prescribing practices course shall be at Respondent’s expense and  
20 shall be in addition to the Continuing Medical Education (CME) requirements for renewal  
21 of licensure.

22 “A prescribing practices course taken after the acts that gave rise to the charges in the  
23 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the  
24 Board or its designee, be accepted towards the fulfillment of this condition if the course  
25 would have been approved by the Board or its designee had the course been taken after the  
26 effective date of this Decision.

27 “Respondent shall submit a certification of successful completion to the Board or its  
28 designee not later than 15 calendar days after successfully completing the course, or not

1 later than 15 calendar days after the effective date of the Decision, whichever is later.”

2 20. Respondent’s probation is subject to revocation because he failed to comply with  
3 Probation Condition 2, referenced above, in that he failed to successfully complete the  
4 Prescribing Practices Course. The facts and circumstances regarding this violation are as follows:  
5 Respondent failed to enroll in a Prescribing Practicing Course as required within 60 days of the  
6 effective date of the Decision.

7 **THIRD CAUSE TO REVOKE PROBATION**

8 (Failure to Participate in Professionalism Program (Ethics Course))

9 21. Condition 3 of the Board’s Decision and Order *In the Matter of Accusation Against*  
10 *Robert T. Perez, M.D.*,” Case No. 04-2013-234367, which became effective on December 8,  
11 2017, states:

12 “PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the  
13 effective date of this Decision, Respondent shall enroll in a professionalism program, that  
14 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.  
15 Respondent shall participate in and successfully complete that program. Respondent shall  
16 provide any information and documents that the program may deem pertinent. Respondent  
17 shall successfully complete the classroom component of the program not later than six (6)  
18 months after Respondent’s initial enrollment, and the longitudinal component of the  
19 program not later than the time specified by the program, but no later than one (1) year after  
20 attending the classroom component. The professionalism program shall be at Respondent’s  
21 expense and shall be in addition to the Continuing Medical Education (CME) “requirements  
22 for renewal of licensure.

23 “A professionalism program taken after the acts that gave rise to the charges in the  
24 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the  
25 Board or its designee, be accepted towards the fulfillment of this condition if the program  
26 would have been approved by the Board or its designee had the program been taken after  
27 the effective date of this Decision.

28 “Respondent shall submit a certification of successful completion to the Board or its

1 designee not later than 15 calendar days after successfully completing the program or not  
2 later than 15 calendar days after the effective date of the Decision, whichever is later.”

3 22. Respondent’s probation is subject to revocation because he failed to comply with  
4 Probation Condition 3, referenced above, in that he failed to participate in a Professionalism  
5 Program (Ethics Course). The facts and circumstances regarding this violation are as follows:  
6 Respondent failed to enroll in a Professionalism Program (Ethics Course) within 60 days of the  
7 effective date of the Decision.

#### 8 FOURTH CAUSE TO REVOKE PROBATION

9 (Failure to Participate in Professional Boundaries Program)

10 23. Condition 4 of the Board’s Decision and Order *In the Matter of Accusation Against*  
11 *Robert T. Perez, M.D.,* Case No. 04-2013-234367, which became effective on December 8,  
12 2017, states:

13 “PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the  
14 effective date of this Decision, Respondent shall enroll in a professional boundaries  
15 program approved in advance by the Board or its designee. Respondent, at the program’s  
16 discretion, shall undergo and complete the program’s assessment of Respondent’s  
17 competency, mental health and/or neuropsychological performance, and at minimum, a 24  
18 hour program of interactive education and training in the area of boundaries, which takes  
19 into account data obtained from the assessment and from the Decision(s), Accusation(s) and  
20 any other information that the Board or its designee deems relevant. The program shall  
21 evaluate Respondent at the end of the training and the program shall provide any data from  
22 the assessment and training as well as the results of the evaluation to the Board or its  
23 designee.

24 “Failure to complete the entire program not later than six (6) months after  
25 Respondent’s initial enrollment shall constitute a violation of probation unless the Board or  
26 its designee agrees in writing to a later time for completion. Based on Respondent’s  
27 performance in and evaluations from the assessment, education, and training, the program  
28 shall advise the Board or its designee of its recommendation(s) for additional education,

1 training, psychotherapy and other measures necessary to ensure that Respondent can  
2 practice medicine safely. Respondent shall comply with program recommendations. At the  
3 completion of the program, Respondent shall submit to a final evaluation. The program  
4 shall provide the results of the evaluation to the Board or its designee. The professional  
5 boundaries program shall be at Respondent's expense and shall be in addition to the  
6 Continuing Medical Education (CME) requirements for renewal of licensure.

7 "The program has the authority to determine whether or not Respondent successfully  
8 completed the program.

9 "A professional boundaries course taken after the acts that gave rise to the charges in  
10 the Accusation, but prior to the effective date of the Decision may, in the sole discretion of  
11 the Board or its designee, be accepted towards the fulfillment of this condition if the course  
12 would have been approved by the Board or its designee had the course been taken after the  
13 effective date of this Decision.

14 "If Respondent fails to complete the program within the designated time period,  
15 Respondent shall cease the practice of medicine within three (3) calendar days after being  
16 notified by the Board or its designee that Respondent failed to complete the program."

17 24. Respondent's probation is subject to revocation because he failed to comply with  
18 Probation Condition 4, referenced above, in that he failed to participate in a Professional  
19 Boundaries program. The facts and circumstances regarding this violation are as follows:  
20 Respondent failed to enroll in a Professionalism Boundaries Program within 60 days of the  
21 effective date of the Decision.

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1 **FIFTH CAUSE TO REVOKE PROBATION**

2 (Failure to Submit Quarterly Declarations)

3 25. Condition 9 of the Board's Decision and Order *In the Matter of Accusation Against*  
4 *Robert T. Perez, M.D.*, Case No. 04-2013-234367, which became effective on December 8,  
5 2017, states:

6 "QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under  
7 penalty of perjury on forms provided by the Board, stating whether there has been  
8 compliance with all the conditions of probation.

9 "Respondent shall submit quarterly declarations not later than 10 calendar days after  
10 the end of the preceding quarter."

11 26. Respondent's probation is subject to revocation because he failed to comply with  
12 Probation Condition 9, referenced above, in that he failed to submit Quarterly Declarations. The  
13 facts and circumstances regarding this violation are as follows: Respondent failed to submit a  
14 properly completed declaration for Quarter IV, 2017, due January 10, 2018. Respondent also  
15 failed to submit a declaration for Quarter 1, 2018, due April 10, 2018.

16 **DISCIPLINE CONSIDERATIONS**

17 27. To determine the degree of discipline, if any, to be imposed on Respondent,  
18 Complainant alleges that on or about December 8, 2017, in a prior disciplinary action entitled *In*  
19 *the Matter of the Accusation Against Robert T. Perez*, Case No. 04-2013-234367, before the  
20 Medical Board of California, Respondent's license was revoked, the revocation stayed and  
21 Respondent was placed on probation for thirty-five (35) months on terms and conditions for  
22 violations of gross negligence, repeated negligent acts, dishonest acts, failure to maintain  
23 adequate and accurate records, and unprofessional conduct. Probation will expire on or about  
24 December 8, 2020. That decision is now final and is incorporated by reference as if fully set  
25 forth.

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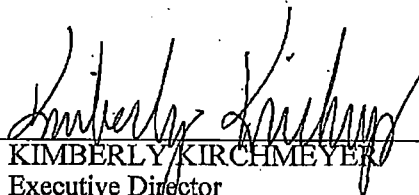
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**PRAYER**

**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 the probation that was granted by the Medical Board of California in case 04-2013-234367 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate Number G 80178, issued to Robert T. Perez, M.D.;
2. Revoking or suspending Physician's and Surgeon's Certificate No. G 80178 issued to Robert T. Perez, M.D.;
3. Revoking, suspending or denying approval of his authority to supervise physician assistants and advance practice nurses;
4. If placed on probation, ordering him to pay the Medical Board of California the costs of probation monitoring; and
5. Taking such other and further action as deemed necessary and proper.

DATED: September 25, 2018



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

*Complainant*

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# EXHIBIT A

DECISION

File No. 04-2013-234367

**Kristina D. Lawson, J.D., Chair**  
**Panel B**

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

**In the Matter of the Accusation Against: )**

**ROBERT T. PEREZ, M.D. )**

**Case No. 04-2013-234367**

**Physician's and Surgeon's  
Certificate No. G 80178 )**

**Respondent )**

**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on November 8, 2017.**

**IT IS SO ORDERED: December 8, 2017.**

**MEDICAL BOARD OF CALIFORNIA**



**Kristina Lawson, J.D., Chair  
Panel B**

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 CHRIS LEONG  
Deputy Attorney General  
4 State Bar No. 141079  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 897-2575  
Facsimile: (213) 897-9395  
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 ROBERT T. PEREZ, M.D.  
1420 E. Edinger Avenue, Suite 123  
13 Santa Ana, CA 92705

14 Physician's and Surgeon's Certificate No.  
15 G80178,

16 Respondent.

Case No. 04-2013-234367

OAH No. 2017010798

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

18 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
19 interest and the responsibility of the Medical Board of California (Board), the parties hereby  
20 agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to  
21 the Board for approval and adoption as the final disposition of the Accusation.

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Board. She  
24 brought this action solely in her official capacity and is represented in this matter by Xavier  
25 Becerra, Attorney General of the State of California, by Chris Leong, Deputy Attorney General.

26 2. Respondent Robert T. Perez, M.D. (Respondent) is represented in this proceeding by  
27 attorney Lee J. Petros, whose address is 1851 East First Street, Ste. 840  
28 Santa Ana, CA 92705.

3.. On November 2, 1994, the Board issued Physician's and Surgeon's Certificate No. G80178., Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in the Accusation No. 04-2013-234367 and will expired on February 89, 2018, unless renewed.

## JURISDICTION

4. Accusation No. 04-2013-234367 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 5, 2015. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 04-2013-234367 is attached as Exhibit A and incorporated herein by reference.

### ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 04-2013-234367. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 04-2013-234367, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

12. Respondent agrees that if he ever petitions for early termination of probation or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 04-2013-234367, shall be deemed true, correct and fully admitted by Respondent for purpose of that proceeding or any other licensing proceeding involving Respondent in the State of California.

### CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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1 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
2 the Board may, without further notice or formal proceeding, issue and enter the following  
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G80178 issued  
6 to Respondent Robert T. Perez, M.D. is revoked. However, the revocation is stayed and  
7 Respondent is placed on probation for thirty-five (35) months on the following terms and  
8 conditions.

9 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this  
10 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
11 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
12 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
13 correcting any areas of deficient practice or knowledge and shall be Category I certified. The  
14 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
15 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
16 completion of each course, the Board or its designee may administer an examination to test  
17 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 20  
18 hours of CME of which 10 hours were in satisfaction of this condition.

19 2. **PRESCRIBING PRACTICES COURSE.** Within 60 calendar days of the effective  
20 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in  
21 advance by the Board or its designee. Respondent shall provide the approved course provider  
22 with any information and documents that the approved course provider may deem pertinent.  
23 Respondent shall participate in and successfully complete the classroom component of the course  
24 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully  
25 complete any other component of the course within one (1) year of enrollment. The prescribing  
26 practices course shall be at Respondent's expense and shall be in addition to the Continuing  
27 Medical Education (CME) requirements for renewal of licensure.

28 A prescribing practices course taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
2 or its designee, be accepted towards the fulfillment of this condition if the course would have  
3 been approved by the Board or its designee had the course been taken after the effective date of  
4 this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its  
6 designee not later than 15 calendar days after successfully completing the course, or not later than  
7 15 calendar days after the effective date of the Decision, whichever is later.

8 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of  
9 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
10 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.  
11 Respondent shall participate in and successfully complete that program. Respondent shall  
12 provide any information and documents that the program may deem pertinent. Respondent shall  
13 successfully complete the classroom component of the program not later than six (6) months after  
14 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
15 time specified by the program, but no later than one (1) year after attending the classroom  
16 component. The professionalism program shall be at Respondent's expense and shall be in  
17 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

18 A professionalism program taken after the acts that gave rise to the charges in the  
19 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
20 or its designee, be accepted towards the fulfillment of this condition if the program would have  
21 been approved by the Board or its designee had the program been taken after the effective date of  
22 this Decision.

23 Respondent shall submit a certification of successful completion to the Board or its  
24 designee not later than 15 calendar days after successfully completing the program or not later  
25 than 15 calendar days after the effective date of the Decision, whichever is later.

26 4. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the  
27 effective date of this Decision, Respondent shall enroll in a professional boundaries program  
28 approved in advance by the Board or its designee. Respondent, at the program's discretion, shall

1 undergo and complete the program's assessment of Respondent's competency, mental health  
2 and/or neuropsychological performance, and at minimum, a 24 hour program of interactive  
3 education and training in the area of boundaries, which takes into account data obtained from the  
4 assessment and from the Decision(s), Accusation(s) and any other information that the Board or  
5 its designee deems relevant. The program shall evaluate Respondent at the end of the training  
6 and the program shall provide any data from the assessment and training as well as the results of  
7 the evaluation to the Board or its designee.

8 Failure to complete the entire program not later than six (6) months after Respondent's  
9 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees  
10 in writing to a later time for completion. Based on Respondent's performance in and evaluations  
11 from the assessment, education, and training, the program shall advise the Board or its designee  
12 of its recommendation(s) for additional education, training, psychotherapy and other measures  
13 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with  
14 program recommendations. At the completion of the program, Respondent shall submit to a final  
15 evaluation. The program shall provide the results of the evaluation to the Board or its designee.  
16 The professional boundaries program shall be at Respondent's expense and shall be in addition to  
17 the Continuing Medical Education (CME) requirements for renewal of licensure.

18 The program has the authority to determine whether or not Respondent successfully  
19 completed the program.

20 A professional boundaries course taken after the acts that gave rise to the charges in the  
21 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
22 or its designee, be accepted towards the fulfillment of this condition if the course would have  
23 been approved by the Board or its designee had the course been taken after the effective date of  
24 this Decision.

25 If Respondent fails to complete the program within the designated time period, Respondent  
26 shall cease the practice of medicine within three (3) calendar days after being notified by the  
27 Board or its designee that Respondent failed to complete the program.

28 5. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of

1 this Decision, and on whatever periodic basis thereafter may be required by the Board or its  
2 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological  
3 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall  
4 consider any information provided by the Board or designee and any other information the  
5 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its  
6 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not  
7 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all  
8 psychiatric evaluations and psychological testing.

9 Respondent shall comply with all restrictions or conditions recommended by the evaluating  
10 psychiatrist within 15 calendar days after being notified by the Board or its designee.

11 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
12 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
13 Chief Executive Officer at every hospital where privileges or membership are extended to  
14 Respondent, at any other facility where Respondent engages in the practice of medicine,  
15 including all physician and locum tenens registries or other similar agencies, and to the Chief  
16 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
17 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
18 calendar days.

19 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

20 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
21 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
22 advanced practice nurses.

23 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
24 governing the practice of medicine in California and remain in full compliance with any court  
25 ordered criminal probation, payments, and other orders.

26 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
27 under penalty of perjury on forms provided by the Board, stating whether there has been  
28 compliance with all the conditions of probation.

1 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
2 of the preceding quarter.

3 10. GENERAL PROBATION REQUIREMENTS.

4 Compliance with Probation Unit

5 Respondent shall comply with the Board's probation unit.

6 Address Changes

7 Respondent shall, at all times, keep the Board informed of Respondent's business and  
8 residence addresses, email address (if available), and telephone number. Changes of such  
9 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
10 circumstances shall a post office box serve as an address of record, except as allowed by Business  
11 and Professions Code section 2021(b).

12 Place of Practice

13 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
14 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
15 facility.

16 License Renewal

17 Respondent shall maintain a current and renewed California physician's and surgeon's  
18 license.

19 Travel or Residence Outside California

20 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
21 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
22 (30) calendar days.

23 In the event Respondent should leave the State of California to reside or to practice  
24 ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
25 departure and return.

26 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
27 available in person upon request for interviews either at Respondent's place of business or at the  
28 probation unit office, with or without prior notice throughout the term of probation.

1           12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
2 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
3 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
4 defined as any period of time Respondent is not practicing medicine as defined in Business and  
5 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
6 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
7 Respondent resides in California and is considered to be in non-practice, Respondent shall  
8 comply with all terms and conditions of probation. All time spent in an intensive training  
9 program which has been approved by the Board or its designee shall not be considered non-  
10 practice and does not relieve Respondent from complying with all the terms and conditions of  
11 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
12 on probation with the medical licensing authority of that state or jurisdiction shall not be  
13 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
14 period of non-practice.

15           In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
16 months, Respondent shall successfully complete the Federation of State Medical Boards's Special  
17 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
18 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
19 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

20           Respondent's period of non-practice while on probation shall not exceed two (2) years.

21           Periods of non-practice will not apply to the reduction of the probationary term.

22           Periods of non-practice for a Respondent residing outside of California will relieve  
23 Respondent of the responsibility to comply with the probationary terms and conditions with the  
24 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
25 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
26 Controlled Substances; and Biological Fluid Testing.

27           13. COMPLETION OF PROBATION. Respondent shall comply with all financial  
28 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the

1 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
2 be fully restored.

3 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
4 of probation is a violation of probation. If Respondent violates probation in any respect, the  
5 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
6 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
7 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
8 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
9 the matter is final.

10 15. LICENSE SURRENDER. Following the effective date of this Decision, if  
11 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
12 the terms and conditions of probation, Respondent may request to surrender his or her license.  
13 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
14 determining whether or not to grant the request, or to take any other action deemed appropriate  
15 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
16 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
17 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
18 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
19 application shall be treated as a petition for reinstatement of a revoked certificate.

20 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
21 with probation monitoring each and every year of probation, as designated by the Board, which  
22 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
23 California and delivered to the Board or its designee no later than January 31 of each calendar  
24 year.

#### 25 ACCEPTANCE

26 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
27 discussed it with my attorney, Lee J. Petros. I understand the stipulation and the effect it will  
28 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and

1 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
2 Decision and Order of the Medical Board of California

3  
4 DATED: 8/2/17

ROBERT T. PEREZ, M.D.  
*Respondent*

6 I have read and fully discussed with Respondent Robert T. Perez, M.D. the terms and  
7 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
8 I approve its form and content.

9 DATED: 8/3/17

LEE J. PETROS  
*Attorney for Respondent*

12 ENDORSEMENT

13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
14 submitted for consideration by the Medical Board of California.

15 Dated:

Respectfully submitted,

16 8/3/17  
17 XAVIER BECERRA  
Attorney General of California  
18 ROBERT MCKIM BELL  
Supervising Deputy Attorney General

19 Chris Leong  
20 CHRIS LEONG  
Deputy Attorney General  
21 *Attorneys for Complainant*

22  
23  
24 LA2014615354  
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EXHIBIT A

Accusation No. 04-2013-234367

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO May 5 20 15  
BY R. FIDRANS ANALYST

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 CHRIS LEONG  
Deputy Attorney General  
4 State Bar No. 141079  
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Los Angeles, CA 90013  
6 Telephone: (213) 897-2575  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 04-2013-234367

13 ROBERT T. PEREZ, M.D.  
2021 E. 4<sup>th</sup> Street, #118  
14 Santa Ana, CA 92705

ACCUSATION

15 Physician's and Surgeon's Certificate  
No. G80178

16 Respondent.  
17

18  
19 Complainant alleges:

20 PARTIES

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

23 2. On or about November 2, 1994, the Board issued Physician's and Surgeon's  
24 Certificate Number G80178 to Robert T. Perez, M.D. (Respondent). This license was in full  
25 force and effect at all times relevant to the charges brought herein and expires on February 29,  
26 2016, unless renewed.

27 ///

28 ///

**JURISDICTION**

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

4. Section 2227 of the Code states, in pertinent part:

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

"(1) Have his or her license revoked upon order of the Board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the Board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the Board.

"(4) Be publicly reprimanded by the Board.

"(5) Have any other action taken in relation to discipline as the Board or an administrative law judge may deem proper."

5. Section 2234 of the Code, states:

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

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

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

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

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1111

6. Section 2266 of the Code states: AThe failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

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

**FIRST CAUSE FOR DISCIPLINE**

(Gross Negligence)

8. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he was grossly negligent in both his behavior towards numerous individuals and the care and treatment of Patient M.M.<sup>1</sup> The circumstances are as follows:

Patient M.M.

9. Patient M.M., 47, was a female patient of Respondent, a psychiatrist, from

<sup>1</sup> The names of the patient, friend and former girlfriend are reduced to initials for privacy.

1 December 2012 through July 2013. On June 26, 2013, Respondent greeted M.M. in a "peculiar  
2 way" saying, "How are you beautiful, you're beautiful as always." Respondent told M.M. that she  
3 looked beautiful. This made M.M. uncomfortable. During the first half hour of the visit,  
4 Respondent talked to her about his divorce referring to his wife as "cabrona" and claiming that his  
5 wife wanted to take his daughter away from him. Respondent showed her a picture of his  
6 daughter and told her about a restraining order against him. Respondent said, "I'm a doctor, I don't  
7 deserve this" [a divorce and restraining order]. Respondent said to M.M.: "You're a very  
8 valuable woman, get a divorce and I will take you."

9 10. On July 18, 2013, M.M. went to Respondent's office with her friend, R.M., to turn  
10 in some insurance papers. She did not have an appointment on that day. Respondent told her to  
11 have his secretary fill out the insurance papers and to cancel her next appointment, because he  
12 had to go to Court. M.M. told Respondent about concerns she had with medication he prescribed  
13 to her. M.M. told Respondent that a pharmacist told her that a medication Respondent  
14 prescribed, Topamax, reacted badly with her other medications, Lexapro and Xanax. Respondent  
15 became furious and yelled at M.M. in an uncontrollable manner stating: "I was on vacation, what  
16 do you want me to do! I have problems. I have to go to Court on Monday. My ex-wife is a  
17 fucking liar and she wants to take my daughter from me. I am a doctor, I am the one that knows.  
18 Assholes! Bastards! I'm going to sue them assholes!" M.M. became frightened and called her  
19 husband and put him on speaker phone. M.M. received three calls from Respondent's office that  
20 day and she called back because she thought it was to cancel her appointment, but the secretary  
21 told her that the doctor wanted to talk to her. M.M. refused to talk with Respondent because she  
22 was still scared.

23 11. On July 23, 2013, M.M. went to Respondent's office accompanied by her husband  
24 and her son to pick up the insurance papers. Respondent was rude to her husband and asked him  
25 to leave the office and called them paranoid. Respondent asked M.M.'s husband if he had  
26 brought a firearm; M.M.'s husband replied that they did not. Respondent told M.M. that he  
27 would only give her the insurance papers if she went into his office alone. M.M. and her husband  
28

1 told him that was not going to happen and that she was not going to his office alone. Respondent  
2 told her husband to shut up and that if he did not like his methods, the door was wide open.  
3 M.M.'s son J.M, told Respondent not to talk to his father like that and to have some respect, and  
4 Respondent calmed down. M.M. asked Respondent to give her chart to her so that she could see  
5 another psychiatrist and Respondent refused. M.M. took the records. Respondent told M.M. that  
6 if she did not give it back to him he would call 911 since she was taking his property. M.M. gave  
7 Respondent back the records. Respondent yelled at M.M. and called her a paranoid schizophrenic  
8 and said, "Bye bye," as he tried to close the door on them. M.M.'s son prevented him from  
9 closing the door and Respondent once again asked if they were armed. Respondent ran out of his  
10 office and made copies, but did not give M.M. a copy of the full records.

11 12. On or about December 11, 2013, a Medical Board Investigator visited  
12 Respondent's office regarding M.M.'s complaints. Respondent was rude and unprofessional and  
13 very sarcastic and condescending. Respondent clenched both fists and took a fighting stance,  
14 even though the Investigator had one hand on the portfolio and his right hand in his pocket. The  
15 investigator informed Respondent that he had failed to pay his medical license fees.

16 13. Respondent's records showed that he diagnosed M.M. with: "Atypical Depression  
17 and Panic Disorder with Agoraphobia." In a letter addressed to the Board dated December 13,  
18 2013, M.M. noted that Respondent had treated M.M. from November 6, 2012, through June 11,  
19 2013.

20 14. Another physician had previously treated M.M. from December 2011 through  
21 2012; her diagnosis then included "Adjustment Disorder with Mixed Anxiety, Depressed Mood,  
22 and Panic Disorder with Agoraphobia." She was provided a temporary total psychiatric disability  
23 with respect to her job as a customer service representative. She was prescribed Celexa (an  
24 antidepressant) and Xanax (an anti-anxiety medication).

25 15. Respondent altered the written medical records months after his last session with  
26 the patient. This was clearly done to validate his defense against the allegations raised by his  
27 former patient, M.M.

1 Former Girlfriend S.P.

2 16. Respondent and his former girlfriend S.P. have a daughter, C.P. From May 9,  
3 2013, through August 22, 2013, Respondent and S.P. were involved in a matter before the  
4 Superior Court of California, County of Orange, Family Court regarding the case of *S.P. v.*  
5 *Robert T. Perez*. A petition to establish parental relationship was filed on May 9, 2013, by S.P.  
6 regarding the custody and visitation of Respondent. A Restraining Order was issued by Judge  
7 Silbar on June 7, 2013, against Respondent, protecting S.P. and her two daughters aged 17 and  
8 13, and two nephews aged 17 and 11. The Order was amended on August 22, 2013.

9 17. A Minute Order dated June 7, 2013, noted that Respondent was admonished by the  
10 Court for showing disrespect to the Court. The Court described for the record, the disrespectful  
11 conduct of Respondent. The Court issued a Restraining Order based on the following:  
12 Respondent's demeanor appeared to be angry. Respondent threatened S.P. of defamation and  
13 was involved in disputes with the S.P.'s 17-year-old child. Respondent drove through S.P.'s lawn  
14 angrily. Respondent was awarded monitored visitations and initially ordered to complete an  
15 eight-week anger management course. A stipulated judgment on August 22, 2013, modified the  
16 visitation for unmonitored visits.

17 18. Respondent exhibited narcissistic and sociopathic type behaviors towards his  
18 patient, M.M. Respondent exhibited similar behavior toward his ex-girlfriend S.P., who is the  
19 mother of his 10-year-old daughter. The documents filed in Family Court in the Superior Court  
20 of Orange County regarding the case of *S.P. v. Robert Perez*, indicate a pattern of threatening  
21 behavior to his ex-girlfriend, e.g., making documented multiple threats to call the Immigration  
22 Service to have S.P. deported. He threatened to refuse to pay child support -- which is illegal in  
23 California -- and to obtain full custody of their daughter. The court documents indicated that  
24 Respondent advised S.P. that he made an "anonymous tip" to the Orange County Police  
25 Department to report her for not having a driver's license and for working illegally (she was  
26 previously employed by him). He wrote numerous letters of a threatening nature to S.P. alleging  
27 she was mentally ill and suffered from Bipolar Disorder. He threatened to only have a cash

1 practice so he didn't have to pay her child support. The judge opined that Respondent was  
2 disrespectful to the Court and issued a Restraining Order against him protecting S.P.  
3 The threatening letters to his ex-girlfriend do not fall into the normal range of understandably  
4 disgruntled family law litigants. Respondent used his power, position and money to threaten S.P.,  
5 showing that he had no regard for others, especially the mother of his young daughter. He was  
6 subsequently admonished by the Court and an order in June 2013 to complete an eight-week  
7 anger management course was modified to a January 16, 2014, order to complete a 22 - week  
8 anger management program after he continued his threatening behavior towards S.P. while under  
9 the scrutiny of the judge.

10 19. Respondent was grossly negligent in both his behavior and in the care and  
11 treatment of a patient as follows:

12 A. The standard of care provides that a physician should not share intimate details  
13 of his personal life with a patient. Respondent failed to maintain a professional demeanor and  
14 boundaries with his patient, M.M., by repeatedly discussing his personal life, specifically  
15 regarding a contentious custody battle with the mother of his ten-year-old daughter.

16 B. Respondent used profanity and made sexual innuendoes to M.M. He exhibited  
17 unprofessional behavior by being rude, sarcastic, condescending and threatening and by yelling  
18 and engaging in verbal outbursts, thereby exhibiting an unprofessional demeanor, which was  
19 unbecoming to a member in good standing of the medical profession.

20 C. Respondent made condescending, verbally abusive statements, and yelled at  
21 the Medical Board Investigator during the course of this investigation, thereby exhibiting an  
22 unprofessional demeanor, which was unbecoming to a member in good standing of the medical  
23 profession.

24 D. Respondent was rude, angry, and disrespectful towards an Orange County  
25 Superior Court Judge during his Family Court trial, thereby exhibiting an unprofessional  
26 demeanor, which was unbecoming to a member in good standing of the medical profession. This  
27 resulted in a restraining order issued against Respondent to protect S.P.



1 E. Respondent made false, threatening, and harmful statements regarding S.P.,  
2 thereby exhibiting an unprofessional demeanor, which was unbecoming to a member in good  
3 standing of the medical profession, including:

- 4 1) making multiple threats to call the immigration service to have S.P.  
5 deported,
- 6 2) threatening to refuse to pay child support for their daughter,
- 7 3) threatening to obtain full custody of their daughter,
- 8 4) making an "anonymous tip to the Orange County Police Department to  
9 report S.P. for not having a drivers license and for working illegally  
10 (she previously worked for him).
- 11 5) writing numerous letters of a threatening nature alleging she was  
12 mentally ill and suffering from Bipolar Disorder.
- 13 6) threatening to only have a cash practice so he didn't have to pay her  
14 child support.

15 F. Respondent altered the medical records of patient M.M. after his last session  
16 with her.

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Repeated Negligent Acts)

19 20. Respondent is subject to disciplinary action under Code section 2234, subdivision (c),  
20 in that he was repeatedly negligent in both his behavior towards numerous individuals and the  
21 care and treatment of Patient M.M. The facts and circumstances alleged in the First Cause For  
22 Discipline are incorporated here as if fully set forth. Respondent engaged in repeated negligent  
23 acts in his behavior and in his care and treatment of a patient as follows:

24 A. The standard of care provides that a physician should not share intimate details  
25 of his personal life with a patient. Respondent failed to maintain a professional demeanor and  
26 boundaries with his patient, M.M., by repeatedly discussing his personal life, specifically  
27 regarding a contentious custody battle with the mother of his ten-year-old daughter.

1 B. Respondent used profanity and made sexual innuendoes to M.M. He exhibited  
2 unprofessional behavior by being rude, sarcastic, condescending and threatening and by yelling  
3 and engaging in verbal outbursts, thereby exhibiting an unprofessional demeanor, which was  
4 unbecoming to a member in good standing of the medical profession.

5 C. Respondent made condescending, verbally abusive statements, and yelled at  
6 the Medical Board Investigator during the course of this investigation, thereby exhibiting an  
7 unprofessional demeanor, which was unbecoming to a member in good standing of the medical  
8 profession.

9 D. Respondent was rude, angry, and disrespectful towards an Orange County  
10 Superior Court Judge during his Family Court trial, thereby exhibiting an unprofessional  
11 demeanor, which was unbecoming to a member in good standing of the medical profession. This  
12 resulted in a restraining order issued against Respondent to protect S.P.;

13 E. Respondent made false, threatening, and harmful statements regarding S.P.,  
14 thereby exhibiting an unprofessional demeanor, which was unbecoming to a member in good  
15 standing of the medical profession, including:

- 16 1) making multiple threats to call the immigration service to have S.P.  
17 deported,
- 18 2) threatening to refuse to pay child support for their daughter,
- 19 3) threatening to obtain full custody of their daughter,
- 20 4) making an "anonymous tip to the Orange County Police Department to  
21 report S.P. for not having a drivers license and for working illegally  
22 (she previously worked for him).
- 23 5) writing numerous letters of a threatening nature alleging she was  
24 mentally ill and suffering from Bipolar Disorder.
- 25 6) threatening to only have a cash practice so he didn't have to pay her  
26 child support..

27 F. Respondent altered the medical records of patient M.M. after his last session  
28 with her.

1 THIRD CAUSE FOR DISCIPLINE

2 (Dishonest Acts)

3 21. Respondent is subject to disciplinary action under Code section 2234, subdivision (e),  
4 in that he was dishonest in the course of providing medical services. The fact and circumstances  
5 alleged above in the First and Second Causes for Discipline are incorporated here as if fully set  
6 forth.

7 22. More specifically, Respondent was dishonest as follows:

8 A. When he altered M.M.'s medical records to avoid liability.

9 B. When he made false statements regarding S.P.

10 FOURTH CAUSE FOR DISCIPLINE

11 (Failure to Maintain Adequate and Accurate Records)

12 23. Respondent is subject to disciplinary action under Code section 2266, in that he failed  
13 to maintain adequate and accurate records relating to the provision of medical services to patient  
14 M.M., by altering the medical records of M.M. and the fact and circumstances alleged above in  
15 the First, Second, and Third Causes for Discipline. The fact and circumstances alleged above in  
16 the First, Second, and Third Causes for Discipline, are incorporated here as if fully set forth.

17 FIFTH CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct)

19 24. Respondent is subject to disciplinary action under Code section 2234, in that he  
20 engaged in unprofessional conduct in the care and treatment of a patient. The facts and  
21 circumstances alleged above in the First, Second, Third, and Fourth Causes for Discipline, are  
22 incorporated here as if fully set forth.

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

Accusation (Case #04-2013-234367)

# EXHIBIT B

---

ORDER ON NOTICED PETITION FOR  
ORDER OF INTERIM SUSPENSION  
File No. 800-2018-043020

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

In the Matter of the Petition for Interim  
Suspension Order Against:

ROBERT T. PEREZ, M.D.,

Physician's and Surgeon's Certificate  
No. G 80178,

Respondent.

Case No. 800-2018-043220

OAH No. 2018071148

**ORDER ON NOTICED PETITION**

**FOR ORDER OF INTERIM SUSPENSION**

On August 24, 2018, at Los Angeles, California, the Petition of Kimberly Kirchmeyer (Petitioner), Executive Director of the Medical Board, Department of Consumer Affairs, State of California (Board) for issuance of an interim order of suspension, came on for hearing before H. Stuart Waxman, Administrative Law Judge with the Office of Administrative Hearings.

Chris Leong, Deputy Attorney General, represented Petitioner.

No appearance was made by or on behalf of Respondent despite his having been properly served with notice of the date, time, and location of the hearing.<sup>1</sup>

The written evidence and legal argument submitted by Petitioner<sup>2</sup> having been read, and oral argument having been heard, the Administrative Law Judge makes the following Order:

---

<sup>1</sup> Respondent was personally served at the Santa Ana City Jail in Santa Ana, California, with the moving papers and notice of the date, time, and location of the hearing.

<sup>2</sup> Respondent did not file a written response to the Petition for Interim Suspension Order.

## FACTUAL FINDINGS

1. On November 2, 1994, the Board issued Physician's and Surgeon's Certificate No. G 80178 to Respondent. The license was in full force and effect at all relevant times. It will expire on February 29, 2020, unless renewed. Respondent specializes in psychiatry.

2. On May 5, 2015, an Accusation entitled *In the Matter of the Accusation Against Robert T. Perez, M.D.*, Case No. 04-2013-234367, was filed with the Board. The Accusation contained causes for discipline which included Gross Negligence (Bus. & Prof. Code, § 2234, subd. (b)), Repeated Negligent Acts (Bus. & Prof. Code, § 2234, subd. (c)), Dishonest Acts (Bus. & Prof. Code, § 2234, subd. (e)), Failure to Maintain Adequate and Accurate Records (Bus. & Prof. Code, § 2266), and Unprofessional Conduct (Bus. & Prof. Code, § 2234). The allegations in that Accusation relate primarily to Respondent's treatment and termination of treatment of a female patient, and his alleged inappropriate affect and use of inappropriate language toward her, her husband, her son, her friend, and a Medical Board investigator. In addition, during the course of treatment, Respondent allegedly spoke to the patient regarding events in his personal life, and he allegedly refused to provide her with her clinical records when she and her husband requested them. The Accusation also alleges Respondent's inappropriate conduct and language toward a former girlfriend and a Superior Court judge.

3. In a Decision effective November 8, 2017, the Board adopted a Stipulated Settlement and Disciplinary Order in the above-referenced case. According to that settlement, Respondent's license to practice medicine was revoked. The revocation was stayed, and Respondent was placed on probation for a period of 35 months under various terms and conditions including completion of an education course, a prescribing practices course, a professionalism program (ethics course), and a professional boundaries program. Respondent also agreed to undergo a psychiatric evaluation.

4. The Stipulated Settlement and Disciplinary Order contained the following clauses:

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

12. Respondent agrees that if he ever petitions for early termination of probation or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 04-2013-234367, shall be deemed true, correct and fully admitted by Respondent for purpose of that proceeding or any other licensing proceeding involving Respondent in the State of California.

5. On August 22, 2017, an Accusation entitled *In the Matter of the Accusation Against Robert T. Perez, M.D.*, Case No. 800-2014-007888, was filed with the Board. The Accusation contained causes for discipline which included Sexual Exploitation (Bus. & Prof. Code, § 729), Sexual Misconduct (Bus. & Prof. Code, § 726), and Unprofessional Conduct (Bus. & Prof. Code, § 2234). The gravamen of that Accusation involved Respondent's alleged romantic relationship with, and subsequent marriage to one of his patients.

6. Instead of sending Respondent to a psychiatric evaluation by a board-certified psychiatrist as set forth in the Stipulated Settlement and Disciplinary Order, Respondent's probation monitor erroneously sent him to a psychiatric evaluation by James L. Gagné, M.D., who was board-certified in internal medicine, addiction medicine, and pain medicine. No evidence was offered to establish that Dr. Gagné had any expertise in psychiatry. Nonetheless, on January 16, 2018, Dr. Gagné conducted an evaluation of Respondent which included a history and physical, but which did not contain a mental status examination or any other evaluations appropriate for a psychiatric examination. Based on his conversation with Respondent, Dr. Gagné decided that, because some of Respondent's statements seemed far-fetched, Respondent was dishonest, that he had "engaged in egregious violations of professional ethics and conduct," that he had engaged in behavior "highly inappropriate for a medical professional," and that, therefore, he should not be treating patients.

7. On February 2, 2018, Respondent's probation monitor wrote to Respondent stating:

On January 26, 2018, the Board referred you for an evaluation with an Internal Medicine physician, Dr. Gagne (*sic*). Your order calls for a Psychiatric Evaluation conducted by a Board certified psychiatrist. I inadvertently sent you to the wrong evaluator. I do apologize for the inconvenience this may have caused you. You are not required to pay for the evaluation with Dr. Gagne, (*sic*) you completed on January 26, 2018.

(Emphasis in text.)

8. For the reasons set forth in Factual Findings 6 and 7, Dr. Gagné's findings and opinions are given no weight.



9. On March 8, 2018, Respondent underwent a psychiatric evaluation by Richard J. Moldawsky, M.D., a board-certified psychiatrist. Upon arriving at Dr. Moldawsky's office, Respondent disclosed to Dr. Moldawsky that the stress of the ongoing process involving his medical license was taking a physical and emotional toll on him, and that, as of two weeks prior to their meeting, he had taken steps to close his practice.

10. After conducting a psychiatric evaluation, Dr. Moldawsky wrote a report in which he found the following with respect to Respondent:

#### Mental Status Examination

Dr. Perez was casually dressed, and quite cooperative. He was respectful and even deferential with me to a degree. He displayed neither psychomotor agitation nor retardation, and engaged directly with good eye contact without any apparent attempt to be evasive. A few of his answers were tangential, but this wasn't a consistent occurrence. He spoke in a normal tone, rate and rhythm, and there was no overt disorganization of thought. That said, he expressed, as noted above, a set of fixed beliefs that he is the victim of a great injustice, that he's been exploited by his wife and the MBC, especially the initial investigator, and that the Board's demands on him are unjustified. Asked directly, he believes there is no alternative way to explain what has happened, that he could not be wrong. Asked directly, he does not see this as at all associated with any ethnic prejudice. There was no evidence of hallucinations. His thought processes were internally consistent (once one accepts his premises as fact). His mood was anxious, and he was a bit fidgety on a few occasions. He became tearful at a few moments, appropriate to the content. Though he is apprehensive about his future, [he] expresses a bland optimism and has no current thoughts of self-harm, suicide, or harm to others. A formal cognitive screening was not done, but there was nothing to suggest cognitive impairment.

#### Diagnosis/Prognosis

Most probably, Dr. Perez meets criteria for Paranoid Personality Disorder, and, possibly, Delusional Disorder as well. Both of these somewhat hinge on whether there is external credible evidence to support or refute his fixed beliefs. Based on the MBC information provided me, his beliefs seem to be unfounded, and his rigid inability and/or unwillingness to consider alternate ideas, in combination with the significant impact on his emotional state, behavior, and level of functioning

all support one or both of these diagnoses. At this point, he may have some degree of a separate depressive disorder as well.

#### Summary and Recommendations

I do not think that Dr. Perez is a danger to himself, or to patients, or the public. He has no history of violence or physical aggression. His isolation and his having minimal outside supports is a source of concern, but he otherwise has little in the way of the usual risk factors for imminent risk of harm to self or others.

Dr. Perez's ability to practice medicine safely is impaired by his mental condition, something he himself appears to recognize enough to have taken action to discontinue his practice. Though that decision could be, in a sense, a way to save face, it is still in the best interests of all that he not practice now.

I recommend that he continue his psychotherapy, mostly as a way to provide some emotional support. In general, people with the diagnoses I have assigned to him do not improve significantly with either psychotherapy or psychotropic medication. That his symptoms are so intricately intertwined with the MBC and his marital situation make it unlikely, in my view, that he'll be able to set them aside enough so as to not interfere with his ability to practice. In other words, I doubt that treatment will restore his health to a point at which he can be entrusted to practice medicine.

11. Dr. Moldawsky was subsequently provided with a California Department of Justice Controlled Substance Utilization Review & Evaluation System (CURES) report which indicated that Respondent was still engaged in the practice of medicine. This prompted Dr. Moldawsky to write an addendum to his report in which he stated:

My statement that Dr. Perez was not a danger to himself or others was intended solely to reflect that he had no active suicidal or homicidal thoughts, nor any conscious intent or wish to harm himself or others, either on its own or as a symptom or a psychiatric disorder.

Nevertheless, his behavior patterns and current condition do, in my opinion as stated, do (*sic*) impact his judgment to the extent that he should not be allowed to practice medicine. The reports of his behaviors with patients and with others are spelled out in the MBC reports and referred to in my report.

Dr. Perez told me, as previously noted, that he had decided to discontinue seeing patients. To whatever extent he continues to do so, despite what he told me, he does pose a danger to the public, ie, his ability to practice medicine safely is significantly impaired.

12. On May 30, 2018, a Second Amended Accusation and Petition to Revoke Probation entitled *In the Matter of the Second Amended Accusation and Petition to Revoke Probation Against Robert T. Perez, M.D.*, Case No. 800-2014-007888, was filed with the Board.<sup>3</sup> The Accusation contained causes for discipline which included Sexual Exploitation (Bus. & Prof. Code, § 729), Sexual Misconduct (Bus. & Prof. Code, § 726), and Unprofessional Conduct (Bus. & Prof. Code, § 2234), and causes to revoke probation which included Failure to Participate in Education Course, Failure to Participate in a Prescribing Practices Course, Failure to Participate in Professionalism Program (Ethics Course), Failure to Participate in Professional Boundaries Program, and Failure to Submit Quarterly Declarations). In the Second Amended Accusation and Petition to Revoke Probation, the allegations regarding Respondent's romantic relationship with, and subsequent marriage to one of his patients was repeated, and several failures to comply with the terms and conditions of his probation were alleged.

13. The hearing on the Second Amended Accusation and Petition to Revoke Probation is presently scheduled for November 19 and 20, 2018. Complainant is contemplating filing a Third Amended Accusation and Petition to Revoke Probation to include a mental impairment pursuant to Business and Professions Code section 822.

14. The filing of the Second Amended Accusation and Petition to Revoke Probation triggered paragraph 12 of the Settlement Agreement and Disciplinary Order in case number 04-2013-234367. (See Factual Finding 4.) Accordingly, the following charges and allegations are deemed true, correct, and admitted:

1. During the course of treatment with a female patient, Respondent discussed events occurring in his personal life.
2. During the course of treatment of the same female patient, Respondent used inappropriate language that made the patient feel uncomfortable.
3. In connection with the termination of treatment by the same patient, Respondent exhibited inappropriate affect and used inappropriate language toward the patient, her husband, her son, her friend, and a Medical Board investigator.

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<sup>3</sup> No evidence was offered regarding a First Amended Accusation or an initial Petition to Revoke Probation.

4. Respondent refused to provide the patient with her clinical records.

5. Respondent made false, threatening, and harmful statements regarding his former girlfriend, thereby exhibiting an unprofessional demeanor, which was unbecoming to a member in good standing of the medical profession, including:

a. making multiple threats to call the immigration service to have her deported;

b. threatening to refuse to pay child support for their daughter;

c. threatening to obtain full custody of their daughter;

d. making an anonymous tip to the Orange County Police Department to report her for not having a driver's license and for working illegally;

e. writing numerous letters of a threatening nature alleging she was mentally ill and suffering from Bipolar Disorder;

f. altering her medical records after his last session with her.

#### LEGAL CONCLUSIONS

1. Cause exists to issue an interim suspension order.

2. Respondent has engaged in acts constituting violations of the Medical Practice Act in that he has been determined to be mentally incompetent to practice medicine safely (Bus. & Prof. Code, §§ 820 and 822) by reason of Findings 4, 5, 9, 10, 11, 12, 13, and 14.

3. Permitting Respondent to continue to engage in the unrestricted practice of medicine will endanger the public health, safety and welfare by reason of Findings 4, 5, 9, 10, 11, 12, 13, and 14.

4. There is a reasonable probability that Petitioner will prevail in the underlying action by reason of Findings 4, 5, 9, 10, 11, 12, 13, and 14.

5. The likelihood of injury to the public in not issuing the below order outweighs the likelihood of injury to Respondent in issuing the order by reason of Findings 4, 5, 9, 10, 11, 12, 13, and 14.

6. Although Dr. Moldawsky's diagnoses were equivocal, his opinion as to whether Respondent is capable of safely practicing medicine was not. The fact that Respondent chose to continue to practice medicine instead of closing his practice, as evidenced by the CURES report, prompted Dr. Moldawsky to write an addendum to his initial report, in order to make it clear that, although Respondent was neither homicidal nor suicidal, he was also not capable of practicing medicine safely. Respondent's license is not being suspended because he changed his mind about continuing to practice medicine. It is being suspended because his ability to engage in the safe practice of medicine is significantly impaired.

7. Given Respondent's absence from the hearing and the lack of opposition papers, there was no evidence submitted to contradict that offered by Petitioner. Given the modest standard of proof for petitions brought pursuant to Government Code section 11529, this petition must be granted.

#### ORDER

1. The petition for an interim order of suspension of Respondent's physician's and surgeon's certificate is granted.

2. Physician's and Surgeon's Certificate No. G 80178, issued to Respondent, Robert T. Pérez, M.D., and all licensing rights appurtenant thereto, are suspended pending a full administrative determination of Respondent's fitness to practice medicine.

3. Respondent shall not:

a. Practice or attempt to practice any aspect of medicine in the State of California until the decision of the Board following an administrative hearing.

b. Advertise, by any means, or hold himself out as practicing or available to practice medicine or to supervise assistants.

c. Be present in any location or office which is maintained for the practice of medicine, or at which medicine is practiced, for any purpose except as a patient or as a visitor of family or friends.

d. Possess, order, purchase, receive, prescribe, furnish, administer, or otherwise distribute controlled substances or dangerous drugs as defined by federal or state law.

4. Respondent shall immediately deliver to the Medical Board of California, or its agent, for safekeeping pending a final administrative order of the Division in this matter, all indicia of his licensure as a physician and surgeon, as contemplated by Business and Professions Code section 119, including, but not limited to, his wall certificate and wallet card issued by the Medical Board of California, as well as all prescription forms, all prescription drugs not legally prescribed to Respondent by his treating physician and surgeon, all Drug Enforcement Administration Drug Order forms, and all Drug Enforcement Administration permits.

5. The operative pleading is already filed. However, should Petitioner choose to file another amended pleading, she shall serve and file the pleading pursuant to Government Code sections 11503 and 11505 within 30 days of the date on which this Petition was submitted. (Govt. Code, § 11529, subd. (f).)

DATED: August 27, 2018

DocuSigned by:  
*H. Stuart Waxman*  
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H. STUART WAXMAN  
Administrative Law Judge  
Office of Administrative Hearings