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.	)	**Case No. 800-2014-007888**
Physician's and Surgeon's Certificate No. G80178	)	
Respondent	)	

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

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
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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/Petition to Revoke Probation Against: ROBERT T. PEREZ, M.D. 1420 E. Edinger Avenue, Suite 123 Santa Ana, CA 92705 Physician's and Surgeon's Certificate No. G 80178 Respondent.	Case No. 800-2014-007888 OAH No. 2017110857 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

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

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

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

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

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the Board issued a Decision effective December 8, 2017, in which Respondent's Physician and Surgeon's Certificate was revoked.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

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

JURISDICTION

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

ADVISEMENT AND WAIVERS

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

8. 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/Petition to Revoke Probation; 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.

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

CULPABILITY

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

11. For the purpose of resolving the Third Amended Accusation/Petition to Revoke Probation 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 Third Amended Accusation/Petition to Revoke Probation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

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

CONTINGENCY

13. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, 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 Surrender 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 Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

ORDER

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

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

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

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

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

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

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

ACCEPTANCE

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

DATED: 3/30/19

ROBERT T. PEREZ, M.D.
Respondent

ENDORSEMENT

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

Dated: 4/2/2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

CHRIS LEONG
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

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

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

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

renewed.

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

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

JURISDICTION

5. This Third Amended Accusation and Petition to Revoke Probation 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.

6. 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."

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

8. 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. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

9. Section 726 of the Code provides:

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

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

10. Section 729 of the Code states:

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

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

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

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

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

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

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

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

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

"(c) For purposes of this section:

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

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

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

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

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

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

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

11. Section 820 of the Code states:

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

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

12. Section 822 of the Code states:

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

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

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

"(c) Placing the licentiate on probation.

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

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

FIRST CAUSE FOR DISCIPLINE

(Sexual Exploitation)

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

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

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

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

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

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

SECOND CAUSE FOR DISCIPLINE

(Sexual Misconduct)

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

THIRD CAUSE FOR DISCIPLINE

(Impaired Ability to Practice)

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

A. 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,

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[1] "The Patient" is used in lieu of initials in order to protect the patent's privacy.

[2] Clonazepam, sold under the brand name Klonopin among others, is a medication used to prevent and treat seizures, panic disorder, and for the movement disorder known as akathisia. It is a tranquilizer of the benzodiazepine class. Taken by mouth, it begins having an effect within 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.

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 another 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 spoke to the patient regarding events in his personal life, and he 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.

B. 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. However, 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.

C. 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."

D. 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.

E. Respondent's probation monitor sent him to an evaluation by J.G.[3], M.D., who was board-certified in internal medicine, addiction medicine, and pain medicine. On January 16, 2018, Dr. J.G. conducted an evaluation of Respondent which included a history and physical. Based on his conversation with Respondent, J.G. 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 therefore, he should not be treating patients.

F. On March 8, 2018, Respondent underwent a psychiatric evaluation by R.M., M.D., a board-certified psychiatrist. Upon arriving at Dr. R.M.'s office, Respondent disclosed to Dr. R.M. 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.

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

"Mental Status Examination.

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

[3] Names are reduced to initials for privacy.

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, [Respondent] 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 [Respondent] 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.

"[Respondent'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."

H. Dr. R.M. 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. R.M. to write an addendum to his report which was received on May 25, 2018 in which he stated:

"My statement that [Respondent] 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 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.

"[Respondent] 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, i.e., his ability to practice medicine safely is significantly impaired."

I. 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. 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.

J. 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. Accordingly, the following charges and allegations are deemed true, correct, and admitted by stipulation:

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.

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.

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

satisfaction of this condition."

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

SECOND CAUSE TO REVOKE PROBATION

(Failure to Participate in a Prescribing Practices Course)

19. Condition 2 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:

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

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

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

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

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

THIRD CAUSE TO REVOKE PROBATION

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

21. Condition 3 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:

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

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

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

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

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

FOURTH CAUSE TO REVOKE PROBATION

(Failure to Participate in Professional Boundaries Program)

23. Condition 4 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:

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

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

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

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

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

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

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

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FIFTH CAUSE TO REVOKE PROBATION

(Failure to Submit Quarterly Declarations)

25. Condition 9 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:

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

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

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

DISCIPLINE CONSIDERATIONS

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

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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

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.	)	MBC File # 04-2013-234367
	)	
	)	
Physician's & Surgeon's	)	
Certificate No. G 80178	)	
	)	
Respondent.	)	

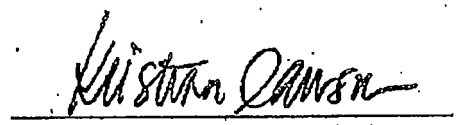
ORDER CORRECTING NUNC PRO TUNC CLERICAL ERRORS IN "ORDER DATE" AND "EFFECTIVE DATE" PORTIONS OF DECISION

On its own motion, the Medical Board of California (hereafter "board") finds that there are clerical errors in the "order date" and "effective date" portions of the Decision in the above-entitled matter and that such clerical errors should be corrected.

IT IS HEREBY ORDERED that the order date and effective date contained on the Decision Order Page in the above-entitled matter be and hereby are amended and corrected nunc pro tunc as of the date of entry of the decision to read:

- "IT IS SO ORDERED: November 8, 2017."
- "This Decision shall become effective at 5:00 p.m. on December 8, 2017."

Dated: November 14, 2017



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

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
CHRIS LEONG
Deputy Attorney General
State Bar No. 141079
California Department of Justice
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Los Angeles, CA 90013
Telephone: (213) 897-2575
Facsimile: (213) 897-9395
Attorneys for Complainant

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. 1420 E. Edinger Avenue, Suite 123 Santa Ana, CA 92705 Physician's and Surgeon's Certificate No. G80178, Respondent.	Case No. 04-2013-234367 OAH No. 2017010798 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

2. Respondent Robert T. Perez, M.D. (Respondent) is represented in this proceeding by attorney Lee J. Petros, whose address is 1851 East First Street, Ste. 840 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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15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

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

1. 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 20 hours of CME of which 10 hours were in satisfaction of this condition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

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

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

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

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

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

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

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

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

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

ACCEPTANCE

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

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

DATED: 8/2/17

ROBERT T. PEREZ, M.D.
Respondent

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

DATED: 8/3/17

LEE J. PETROS
Attorney for Respondent

ENDORSEMENT

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

Dated: 8/3/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

CHRIS LEONG
Deputy Attorney General
Attorneys for Complainant

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EXHIBIT A

Accusation No. 04-2013-234367

KAMALA D. HARRIS
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 5 20 15
BY R. FIRDAUS ANALYST

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.** 2021 E. 4th Street, #118 Santa Ana, CA 92705 Physician's and Surgeon's Certificate No. G80178 Respondent.	Case No. 04-2013-234367 **ACCUSATION**

Complainant alleges:

PARTIES

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

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

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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.

"..."

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.[1] The circumstances are as follows:

Patient M.M.

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

[1] The names of the patient, friend and former girlfriend are reduced to initials for privacy.

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

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

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

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

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

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

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

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

Former Girlfriend S.P.

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

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

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

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

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

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

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

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

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

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

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

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

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

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

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

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

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

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

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

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

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

THIRD CAUSE FOR DISCIPLINE

(Dishonest Acts)

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

22. More specifically, Respondent was dishonest as follows:

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

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

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

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

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

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

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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 or suspending Physician's and Surgeon's Certificate Number G80178, issued to Robert T. Perez, M.D.;

2. Revoking, suspending or denying approval of Robert T. Perez, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Robert T. Perez, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring; and

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

DATED: May 5, 2015

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

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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.[1]

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

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[1] 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.

[2] 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.
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> 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
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> 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.
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> Diagnosis/Prognosis
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> 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.[3] 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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[3] 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. Perez, 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