

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

In the Matter of the Accusation)	
Against:)	
)	
)	
ANTONIO PEREZ -MUNOZ, M.D.)	Case No. 09-2011-214027
)	
Physician's and Surgeon's)	
Certificate No. G 86746)	
)	
Respondent)	
_____)	


DECISION AND ORDER

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 August 6, 2014.

IT IS SO ORDERED: July 7, 2014.

MEDICAL BOARD OF CALIFORNIA

By: 
**Dev Gnanadev, M.D., Chair
Panel B**

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 LORI JEAN FORCUCCI
Deputy Attorney General
4 State Bar No. 125345
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5 San Diego, CA 92101
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

14 **ANTONIO PEREZ-MUNOZ, M.D.**
15 **1180 N. Indian Canyon, Suite W-300**
Palm Springs, CA 92262-4809

16 **Physician's and Surgeon's Certificate**
17 **No. G 86746**

18 Respondent.

Case No. 09-2011-214027

OAH No. 2013070752

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

19 1. Kimberly Kirchmeyer (Complainant) is the Interim Executive Officer of the Medical
20 Board of California. She brought this action solely in her official capacity and is represented in
21 this matter by Kamala D. Harris, Attorney General of the State of California, by Lori Jean
22 Forcucci, Deputy Attorney General.

23 2. Respondent Antonio Perez-Munoz, M.D. (Respondent) is represented in this
24 proceeding by the law firm of Carroll, Kelly, Trotter, Franzen & McKenna, by attorney Mark V.
25 Franzen, Esq., whose address is: 111 W. Ocean Boulevard, 14th Floor, Long Beach, CA 90801-
26 5636.

27 3. On or about December 20, 2002, the Medical Board of California issued Physician's
28 and Surgeon's Certificate No. G 86746 to Antonio Perez-Munoz, M.D. Physician's and

1 Surgeon's Certificate No. G 86746 was in full force and effect at all times relevant to the charges
2 brought in Accusation No. 09-2011-214027, and will expire on April 30, 2014, unless renewed.

3 JURISDICTION

4 4. On January 10, 2013, Accusation No. 09-2011-214027 was filed before the Medical
5 Board of California (Board), Department of Consumer Affairs, and is currently pending against
6 Respondent. A true and correct copy of Accusation No. 09-2011-214027 and all other statutorily
7 required documents were properly served on Respondent on January 10, 2013. Respondent
8 timely filed his Notice of Defense contesting the Accusation. A true and correct copy of
9 Accusation No. 09-2011-214027 is attached hereto as Exhibit A and incorporated herein by
10 reference, as if fully set forth herein.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and fully understands the
13 charges and allegations in Accusation No. 09-2011-214027. Respondent has also carefully read,
14 fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and
15 Disciplinary Order on his Physician's and Surgeon's Certificate No. G 86746.

16 6. Respondent is fully aware of his legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation No. 09-2011-214027; the right to
18 confront and cross-examine the witnesses against him; the right to present evidence and to testify
19 on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses
20 and the production of documents; the right to reconsideration and court review of an adverse
21 decision; and all other rights accorded by the California Administrative Procedure Act and other
22 applicable laws, having been fully advised of same by his attorney of record, Mark V. Franzen.

23 7. Respondent, having the benefit of counsel, hereby voluntarily, knowingly, and
24 intelligently waives and gives up each and every right set forth above.

25 CULPABILITY

26 8. Respondent agrees that, at an administrative hearing, complainant could establish a
27 *prima facie* case with respect to the charges and allegations contained in Accusation No.
28 Accusation No. 09-2011-214027, a copy of which is attached hereto as Exhibit "A," and that he

1 has thereby subjected his Physician's and Surgeon's Certificate No. G 86746 to disciplinary
2 action.

3 9. Respondent agrees that if he ever petitions for early termination or modification of
4 probation, or if an accusation and/or petition to revoke probation is filed against him before the
5 Medical Board of California, all of the charges and allegations contained in Accusation No.
6 09-2011-214027 shall be deemed true, correct and fully admitted by Respondent for purposes of
7 any such proceeding or any other licensing proceeding involving Respondent in the State of
8 California, or elsewhere.

9 10. Respondent agrees that his Physician's and Surgeon's Certificate No. G 86746 is
10 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth
11 in the Disciplinary Order below.

12 **CONTINGENCY**

13 11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
14 submitted to the Board for its consideration in the above-entitled matter and, further, that the
15 Board shall have a reasonable period of time in which to consider and act on this Stipulated
16 Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully
17 understands and agrees that he may not withdraw his agreement or seek to rescind this
18 stipulation prior to the time that the Board considers and acts upon it.

19 12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
20 and void and not binding upon the parties unless approved and adopted by the Board, except for
21 this paragraph, which shall remain in full force and effect. Respondent fully understands and
22 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
23 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
24 the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the
25 Board, any member thereof, and/or any other person from future participation in this or any other
26 matter affecting or involving Respondent. In the event that the Board, in its discretion, does not
27 approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this
28 paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall

1 not be relied upon or introduced in any disciplinary action by either party hereto. Respondent
2 further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for
3 any reason, Respondent will assert no claim that the Board, or any member thereof, was
4 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and
5 Disciplinary Order or of any matter or matters related hereto.

6 **ADDITIONAL PROVISIONS**

7 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
8 be an integrated writing representing the complete, final and exclusive embodiment of the
9 agreements of the parties in the above-entitled matter.

10 14.. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
11 including facsimile signatures of the parties, may be used in lieu of original documents and
12 signatures and, further, that copies of signatures shall have the same force and effect as originals.

13 15. In consideration of the foregoing admissions and stipulations, the parties agree the
14 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
15 the following Disciplinary Order:

16 **DISCIPLINARY ORDER**

17 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 86746 issued
18 to Respondent Antonio Perez-Munoz, M.D., (Respondent) is revoked. However, the revocation
19 is stayed and Respondent is placed on probation for three (3) years from the effective date of this
20 Decision on the following terms and conditions.

21 1. **EDUCATION COURSE** Within 60 calendar days of the effective date of this
22 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
23 for its prior approval educational programs or courses on the subject of interpretation of external
24 fetal monitoring strips, which shall not be less than 40 hours per year, for each year of probation.
25 The educational programs or courses shall be aimed at correcting any areas of deficient practice
26 or knowledge and shall be Category I certified. The educational programs or courses shall be at
27 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
28 requirements for renewal of licensure. Following the completion of each course, the Board or its

1 designee may administer an examination to test Respondent's knowledge of the course.

2 Respondent shall provide proof of attendance for 65 hours of continuing medical education of
3 which 40 hours were in satisfaction of this condition.

4 2. PREScribing PRACTICES COURSE Within 60 calendar days of the effective
5 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the
6 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,
7 University of California, San Diego School of Medicine (Program), approved in advance by the
8 Board or its designee. Respondent shall provide the program with any information and
9 documents that the Program may deem pertinent. Respondent shall participate in and
10 successfully complete the classroom component of the course not later than six (6) months after
11 Respondent's initial enrollment. Respondent shall successfully complete any other component of
12 the course within one (1) year of enrollment. The prescribing practices course shall be at
13 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
14 requirements for renewal of licensure.

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

20 Respondent shall submit a certification of successful completion to the Board or its
21 designee not later than 15 calendar days after successfully completing the course, or not later than
22 15 calendar days after the effective date of the Decision, whichever is later.

23 3. CLINICAL TRAINING PROGRAM Within 60 calendar days of the effective
24 date of this Decision, Respondent shall enroll in a clinical training or educational program
25 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the
26 University of California - San Diego School of Medicine ("Program"). Respondent shall
27 successfully complete the Program not later than six (6) months after Respondent's initial
28 enrollment unless the Board or its designee agrees in writing to an extension of that time.

1 The Program shall consist of a Comprehensive Assessment program comprised of a two-
2 day assessment of Respondent's physical and mental health; basic clinical and communication
3 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to
4 Respondent's area of practice in which Respondent was alleged to be deficient, and at minimum,
5 a 40 hour program of clinical education in the area of practice in which Respondent was alleged
6 to be deficient and which takes into account data obtained from the assessment, Decisions,
7 Accusations, and any other information that the Board or its designee deems relevant. Respondent
8 shall pay all expenses associated with the clinical training program.

9 Based on Respondent's performance and test results in the assessment and clinical
10 education, the Program will advise the Board or its designee of its recommendations for the scope
11 and length of any additional educational or clinical training, treatment for any medical condition,
12 treatment for any psychological condition, or anything else affecting Respondent's practice of
13 medicine. Respondent shall comply with Program recommendations.

14 At the completion of any additional educational or clinical training, Respondent shall
15 submit to and pass an examination. Determination as to whether Respondent successfully
16 completed the examination or successfully completed the program is solely within the program's
17 jurisdiction.

18 If Respondent fails to enroll, participate in, or successfully complete the clinical training
19 program within the designated time period, Respondent shall receive a notification from the
20 Board or its designee to cease the practice of medicine within three (3) calendar days after being
21 so notified. The Respondent shall not resume the practice of medicine until enrollment or
22 participation in the outstanding portions of the clinical training program have been completed. If
23 the Respondent did not successfully complete the clinical training program, the Respondent shall
24 not resume the practice of medicine until a final decision has been rendered on the accusation
25 and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of
26 the probationary time period

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1 4. PRACTICE MONITOR Within 30 calendar days of the effective date of this
2 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
3 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
4 licenses are valid and in good standing, and who are preferably American Board of Medical
5 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
6 relationship with Respondent, or other relationship that could reasonably be expected to
7 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
8 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
9 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

10 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
11 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
12 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
13 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
14 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
15 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
16 signed statement for approval by the Board or its designee.

17 Within 60 calendar days of the effective date of this Decision, and continuing throughout
18 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
19 make all records available for immediate inspection and copying on the premises by the monitor
20 at all times during business hours and shall retain the records for the entire term of probation.

21 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
22 date of this Decision, Respondent shall receive a notification from the Board or its designee to
23 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
24 shall cease the practice of medicine until a monitor is approved to provide monitoring
25 responsibility.

26 The monitor(s) shall submit a quarterly written report to the Board or its designee which
27 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
28 are within the standards of practice of medicine, and whether Respondent is practicing medicine

1 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
2 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
3 preceding quarter.

4 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
5 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
6 name and qualifications of a replacement monitor who will be assuming that responsibility within
7 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
8 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
9 notification from the Board or its designee to cease the practice of medicine within three (3)
10 calendar days after being so notified Respondent shall cease the practice of medicine until a
11 replacement monitor is approved and assumes monitoring responsibility.

12 In lieu of a monitor, Respondent may participate in a professional enhancement program
13 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
14 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
15 chart review, semi-annual practice assessment, and semi-annual review of professional growth
16 and education. Respondent shall participate in the professional enhancement program at
17 Respondent's expense during the term of probation.

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

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

4 8. QUARTERLY DECLARATIONS Respondent shall submit quarterly
5 declarations under penalty of perjury on forms provided by the Board, stating whether there has
6 been compliance with all the conditions of probation. Respondent shall submit quarterly
7 declarations not later than 10 calendar days after the end of the preceding quarter.

8 9. GENERAL PROBATION REQUIREMENTS

9 Compliance with Probation Unit: Respondent shall comply with the Board's probation
10 unit and all terms and conditions of this Decision.

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

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

19 License Renewal: Respondent shall maintain a current and renewed California
20 Physician's and Surgeon's license.

21 Travel or Residence Outside California: Respondent shall immediately inform the Board,
22 or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts,
23 or is contemplated to last, more than 30 calendar days. In the event Respondent should leave the
24 State of California to reside or to practice Respondent shall notify the Board or its designee in
25 writing 30 calendar days prior to the dates of departure and return.

26 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall be
27 available in person for interviews either at Respondent's place of business or at the probation unit
28 office, with the Board or its designee, upon request at various intervals, and either with or without

1 prior notice throughout the term of probation.

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

13 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
14 months, Respondent shall successfully complete a clinical training program that meets the criteria
15 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
16 Disciplinary Guidelines" prior to resuming the practice of medicine.

17 Respondent's period of non-practice while on probation shall not exceed two (2) years.
18 Periods of non-practice will not apply to the reduction of the probationary term. Periods of non-
19 practice will relieve Respondent of the responsibility to comply with the probationary terms and
20 conditions with the exception of this condition and the following terms and conditions of
21 probation: Obey All Laws; and General Probation Requirements.

22 12. COMPLETION OF PROBATION Respondent shall comply with all financial
23 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
24 completion of probation. Upon successful completion of probation, Respondent's certificate shall
25 be fully restored.

26 13. VIOLATION OF PROBATION Failure to fully comply with any term or condition
27 of probation is a violation of probation. If Respondent violates probation in any respect, the
28 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and

1 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
2 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
3 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
4 be extended until the matter is final.

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

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

20 16. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, respondent is
21 prohibited from supervising physician assistants.

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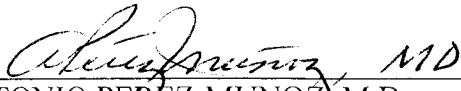
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28 ///

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Mark V. Franzen, Esq. I understand the stipulation and the effect it
4 will have on my Physician's and Surgeon's Certificate No. G 86746. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Medical Board of California.

7
8 DATED: 1/31/2014 
9 ANTONIO PEREZ-MUNOZ, M.D.
Respondent

10 I have read and fully discussed with Respondent, Antonio Perez-Munoz M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 1-31-14 
14 MARK V. FRANZEN, ESQ.
Attorney for Respondent

15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the Medical Board of California of the Department of Consumer
18 Affairs.

19 Dated: 1-31-14

Respectfully submitted,

20 KAMALA D. HARRIS
21 Attorney General of California
22 THOMAS S. LAZAR
Supervising Deputy Attorney General


23 
24 LORI JEAN FORCUCCI
25 Deputy Attorney General
26 Attorneys for Complainant
27
28

Exhibit A

Accusation No. 09-2011-214027

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 LORI JEAN FORCUCCI
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO January 10 2013
BY H. Park ANALYST

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

12
13 In the Matter of the Accusation Against:

Case No. 09-2011-214027

14 **ANTONIO PEREZ-MUNOZ, M.D.**
15 **1180 N. Indian Canyon, Suite W-300**
Palm Springs, CA 92262-4809

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. G 86746**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

23 2. On or about December 20, 2002, the Medical Board of California issued Physician's
24 and Surgeon's Certificate No. G 86746 to Antonio Perez-Munoz, M.D. (Respondent).
25 Physician's and Surgeon's Certificate No. G 86746 was in full force and effect at all times
26 relevant to the charges brought herein and will expire on April 30, 2014, unless renewed.

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JURISDICTION

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

4. Section 2220 of the Code states, in pertinent part:

“Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter [Chapter 5, the Medical Practice Act].

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded, or have such other action taken in relation to discipline as the board deems proper.

6. 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 [Chapter 5, the Medical Practice Act].

“(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,

1 but not limited to, a reevaluation of the diagnosis or a change in treatment, and the
2 licensee's conduct departs from the applicable standard of care, each departure
3 constitutes a separate and distinct breach of the standard of care.

4 "..."

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Gross Negligence)**

7 7. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
8 by section 2234, subdivision (b), of the Code in that he committed gross negligence in his care
9 and treatment of patient A.F., in the labor and delivery of her baby, baby S., as more particularly
10 alleged hereinafter:

11 8. On or about February 21, 2008, at approximately 4:30 p.m., patient A.F., a then 28-
12 year-old multigravida¹ pregnant female, was admitted to Desert Regional Medical Center at term
13 for induction of labor. Respondent was the attending physician for patient A.F. Patient A.F. was
14 given misoprostol for cervical ripening and was started on Pitocin.²

15 9. Patient A.F. had not progressed in labor by the afternoon of February 22, 2008. An
16 external fetal monitor³ had been placed on patient A.F., which showed occasional decelerations.⁴
17 However, neither an internal fetal monitor nor a fetal electrode⁵ was placed in patient A.F. to
18 monitor fetal heart rate and fetal intolerance to labor.

19 ///

20 _____
21 ¹ Multigravida is a term applicable to a pregnant woman with previous pregnancies.

22 ² Pitocin is a synthetic hormone that stimulates uterine smooth muscle contractions
23 indirectly and helps expedite the normal contractions of spontaneous labor. Misoprostol is a
synthetic prostaglandin that is used to induce labor.

24 ³ External fetal heart rate monitoring uses a device to listen to and/or record the fetal
heartbeat through the mother's abdomen.

25 ⁴ A deceleration means a decrease in the fetal heart rate that can indicate inadequate
26 blood flow though the placenta.

27 ⁵ Internal fetal heart rate monitoring uses an electronic transducer connected directly to
28 the fetal skin. A wire electrode is attached to the fetal scalp or other body part through the
cervical opening and is connected to the monitor.

1 10. Between at or about 3:22 p.m. to 9:59 p.m., on February 22, 2008, patient A.F.'s
2 displayed varied concerning symptoms during labor, including but not limited to, baby S.'s fetal
3 heart rate⁶ showed approximately 43 recorded decelerations. During periods of time from 3:22
4 p.m. to 9:59 p.m., on February 22, 2008, patient A.F.'s fetal monitoring strips were
5 uninterpretable and showed tachysystole,⁷ hyperstimulation, saw tooth patterns, overshoots to 180
6 and decelerations, as well as elevated baseline for long periods of time, without appropriate action
7 taken by Respondent. Respondent allowed patient A.F. to continue with labor and continue to
8 receive Pitocin and did not schedule a cesarean section delivery for her.

9 11. On February 22, 2008, at or about 7:59 p.m., patient A.F. became completely dilated
10 and pushed for about two hours until she vaginally delivered baby S., a female infant weighing
11 approximately six pounds ten ounces, at 9:59 p.m. At the time of the delivery, the infant was
12 floppy, blue and not breathing.

13 12. The Neonatal Intensive Care Unit team was called immediately and helped with
14 resuscitation of baby S., whose Apgar scores were one at one minute, three at five minutes and
15 six at 10 minutes.⁸ Baby S. was later diagnosed with significant neurological deficits.

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21 ⁶ Fetal heart rate patterns are classified as reassuring, nonreassuring or ominous.
22 Nonreassuring patterns such as fetal tachycardia, bradycardia and late decelerations with good
23 short-term variability require intervention to rule out fetal acidosis, an increased acidity in the
24 blood and other body tissue.

24 ⁷ Tachysystole means that there are more than five contractions in 10 minutes, averaged
25 over 30-minutes.

25 ⁸ The Apgar score is determined by evaluating a newborn on five criteria on a scale from
26 zero to two, then adding the values. The resulting Apgar score ranges from zero to 10. The five
27 criteria are appearance, pulse, grimace, activity, and respiration to form the acronym, Apgar. The
28 test is generally done at one and five minutes after birth, and may be repeated later if the score is
and remains low. Scores 7 and above are generally normal, 4 to 6 fairly low, and 3 and below are
generally regarded as critically low.

13. Respondent committed gross negligence in his care and treatment of patient A.F., which included, but was not limited to, the following:

- (a) On or about February 22, 2008, at or about 4:00 p.m., and thereafter, Respondent failed to appropriately interpret the external fetal monitoring strips placed on the abdomen of patient A.F. for baby S.; and
- (b) On or about February 22, 2008, Respondent failed to maintain vigilance in monitoring the labor of patient A.F., and allowed her to receive too much Pitocin, which, in the absence of appropriate fetal monitoring, depleted baby S.'s reserves.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

14. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code in that he committed repeated negligent acts in the care and treatment of patient A.F., as more particularly alleged hereinafter:

15. Paragraphs 7 through 13, above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

16. Respondent committed repeated negligent acts in his care and treatment of patient A.F., which included, but was not limited to, the following:

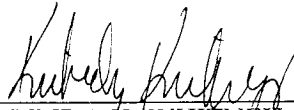
- (a) On or about February 22, 2008, at or about 4:00 p.m., and thereafter, Respondent failed to appropriately interpret the external fetal monitoring strips placed on the abdomen of patient A.F. for baby S.;
- (b) On or about February 22, 2008, Respondent failed to maintain vigilance in monitoring the labor of patient A.F., and allowed her to receive too much Pitocin, which, in the absence of appropriate fetal monitoring, depleted baby S.'s reserves; and
- (c) On or about February 22, 2008, when the external monitor placed on patient A.F. could not adequately monitor baby S., Respondent failed to either perform a cesarean section delivery on patient A.F. or, alternatively place on baby S. a fetal electrode and verify if baby S. could tolerate continued labor.

1 **PRAYER**

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

- 4 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 86746, issued
5 to Respondent Antonio Perez-Munoz, M.D.;
- 6 2. Revoking, suspending or denying approval of Respondent Antonio Perez-Munoz,
7 M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
- 8 3. Ordering Respondent Antonio Perez-Munoz, M.D., if placed on probation, to pay the
9 costs of probation monitoring to the Medical Board of California; and
- 10 4. Taking such other and further action as deemed necessary and proper.

11
12 DATED: January 10, 2013


LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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