

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

In the Matter of the Accusation
Against:

Guillermo J. Gomez, M.D.

Physician's and Surgeon's
Certificate No. A 69815

Respondent.

Case No. 800-2017-032272

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 January 1, 2021.

IT IS SO ORDERED DEC 23 2020.

MEDICAL BOARD OF CALIFORNIA



REJI VARGHESE
DEPUTY DIRECTOR

for: William Prasifka
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6475
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:
13 GUILLERMO J. GOMEZ, M.D.
3750 Arlington Avenue
14 Riverside, California 92506
15 Physician's and Surgeon's Certificate
No. A 69815,
16
17 Respondent.

Case No. 800-2017-032272

OAH No. 2020050205

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

21 **PARTIES**

22 1. William Prasifka ("Complainant") is the Executive Director of the Medical Board of
23 California ("Board"). He brought this action solely in his official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Rebecca L. Smith,
25 Deputy Attorney General.

26 2. Guillermo J. Gomez, M.D. ("Respondent") is represented in this proceeding by
27 attorney Kevin D. Cauley, whose address is 624 South Grand Avenue, 22nd Floor, Los Angeles,
28 California 90017-3323.

ORDER

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2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 69815, issued
3 to Respondent GUILLERMO J. GOMEZ, M.D., is surrendered and accepted by the Board,
4 effective January 1, 2021 (the "Effective Date").

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

9 2. Respondent shall lose all rights and privileges as a physician in California as of the
10 Effective Date.

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

13 4. If Respondent ever files an application for licensure or a petition for reinstatement in
14 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
15 comply with all the laws, regulations and procedures for reinstatement of a revoked or
16 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
17 contained in Accusation No. 800-2017-032272 shall be deemed to be true, correct and admitted
18 by Respondent when the Board determines whether to grant or deny the petition.

19 5. If Respondent should ever apply or reapply for a new license or certification, or
20 petition for reinstatement of a license, by any other health care licensing agency in the State of
21 California, all of the charges and allegations contained in Accusation, No. 800-2017-032272 shall
22 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
23 Issues or any other proceeding seeking to deny or restrict licensure.

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1 **ACCEPTANCE**

2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney Kevin D. Cauley. I understand the stipulation and the effect it will
4 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
5 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

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8 DATED: 11-02-2020


9 **GUILLERMO J. GOMEZ, M.D.**
10 *Respondent*

11 I have read and fully discussed with Respondent GUILLERMO J. GOMEZ, M.D. the terms
12 and conditions and other matters contained in this Stipulated Surrender of License and Order. I
13 approve its form and content.

14 DATED: 11-3-2020


15 **KEVIN D. CAULEY**
16 *Attorney for Respondent*

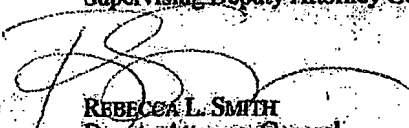
17 **ENDORSEMENT**

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

20 DATED: 11-3-2020

21 Respectfully submitted,

22 **XAVIER BECERRA**
23 *Attorney General of California*
24 **JUDITH T. ALVARADO**
25 *Supervising Deputy Attorney General*


26 **REBECCA L. SMITH**
27 *Deputy Attorney General*
28 *Attorneys for Complainant*

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Exhibit A

Accusation No. 800-2017-032272

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
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9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2017-032272

14 **GUILLERMO J. GOMEZ, M.D.**
3750 Arlington Avenue
Riverside, California 92506

A C C U S A T I O N

15 Physician's and Surgeon's Certificate
16 No. A 69815,

17 Respondent.

18
19 **PARTIES**

20 1. Christine J. Lally ("Complainant") brings this Accusation solely in her official
21 capacity as the Interim Executive Director of the Medical Board of California, Department of
22 Consumer Affairs ("Board").

23 2. On or about September 17, 1999, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 69815 to Guillermo J. Gomez, M.D. ("Respondent"). That license was in
25 full force and effect at all times relevant to the charges brought herein and will expire on April 30,
26 2021, unless renewed.

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1 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
2 medical review or advisory conferences, professional competency examinations,
3 continuing education activities, and cost reimbursement associated therewith that are
4 agreed to with the board and successfully completed by the licensee, or other matters
5 made confidential or privileged by existing law, is deemed public, and shall be made
6 available to the public by the board pursuant to Section 803.1.

7 6. Section 2234 of the Code, states:

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

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

13 (b) Gross negligence.

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

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

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

26 (d) Incompetence.

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

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

(g) The failure by a certificate holder, in the absence of good cause, to attend
and participate in an interview by the board. This subdivision shall only apply to a
certificate holder who is the subject of an investigation by the board.

7. Section 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or
indirectly related to the practice of medicine or podiatry which falsely represents the
existence or nonexistence of a state of facts, constitutes unprofessional conduct.

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8. Section 2262 of the Code states:

Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars (\$500) for a violation of this section.

9. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

FACTUAL ALLEGATIONS

10. On April 25, 2017, the Medical Board of California (“Board”) received a Report of Settlement pursuant to Business and Professions Code section 801 (“801 Report”) from Respondent’s professional liability carrier notifying the Board that it paid a settlement to Patient 1¹ on behalf of Respondent for an alleged failure to diagnose testicular cancer. Patient 1’s medical records, including Respondent’s progress notes for June 15, 2013, October 9, 2013, November 14, 2014 and December 1, 2014 were included with the 801 Report.

11. The Board requested that Respondent provide a written summary of the care and treatment he rendered to Patient 1 as well as a copy of his curriculum vitae.

12. On June 9, 2017, the Board received correspondence from Respondent’s then attorney summarizing the care and treatment Respondent provided to Patient 1. Copies of Respondent’s progress notes for Patient 1’s June 15, 2013, October 9, 2013, November 14, 2014 and December 1, 2014 office visits were also attached to the correspondence along with a copy of Respondent’s curriculum vitae.

13. In response to an investigational subpoena issued to Respondent for the certified medical records of Patient 1, the Health Quality Investigations Unit of the Division of Investigations, Department of Consumer Affairs (“HQIU”) received certified medical records for Patient 1 from Respondent’s office.

¹ For privacy purposes, the patient in this Accusation is referred to as Patient 1.

1 14. None of the three versions of Patient 1's chart produced by Respondent to the Board
2 match. There is no indication as to which version of the chart is the original and which version
3 was altered. It is clear, however, that all versions of Patient 1's chart in the Board's possession
4 have been altered in some manner.

5 15. On February 11, 2020, Respondent appeared at the HQUI Rancho Cucamonga Field
6 Office with new counsel for a scheduled Board interview regarding his care and treatment of
7 Patient 1. At that time, Respondent invoked his Fifth Amendment right against self-incrimination
8 in response to all questions regarding his background, training and current medical practice as
9 well as the medical care and treatment provided to Patient 1. Respondent also invoked his Fifth
10 Amendment right against self-incrimination to questions regarding the different charts he
11 produced to the Board, the alterations to the charts, who made the alterations and the specific
12 notation he made in two versions of the charts which state, "amendment done December 20,
13 2014."

14 16. During the interview, Respondent's attorney confirmed that Respondent provided the
15 Board a response regarding Respondent's care and treatment of Patient 1 by way of
16 correspondence from Respondent's prior counsel dated June 8, 2017.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct – Gross Negligence)**

19 17. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
20 the Code, in that he engaged in gross negligence in his record keeping for Patient 1. Complainant
21 refers to and, by this reference, incorporates herein, paragraphs 10 through 16, above, as though
22 fully set forth herein. The circumstances are as follows:

23 18. There are significant unexplained differences in the versions of Respondent's June
24 15, 2013, October 9, 2013, November 14, 2014 and December 1, 2014 Progress Notes for Patient
25 1, which Respondent produced to the Board and received by the Board on April 25, 2017, June 9,
26 2017 and August 15, 2019. In addition to altered progress notes, Respondent produced different
27 versions of Patient 1's complete chart to the Board.

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