

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

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

Ruben Gamez, M.D.

**Physician's and Surgeons
License No. A 104336,**

Respondent.

Case No. 800-2019-054158

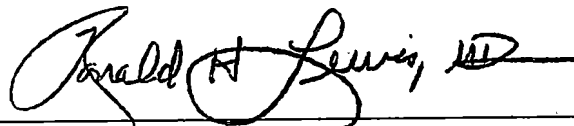
DECISION

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 February 5, 2021.

IT IS SO ORDERED: January 6, 2021.

MEDICAL BOARD OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Ronald H. Lewis, MD", written over a horizontal line.

**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 LEANNA E. SHIELDS
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2019-054158

14 **RUBEN GAMEZ, M.D.**
15 **80 Empire Drive**
Lake Forest, CA 92630-2244

OAH No. 2020060518

16 **Physician's and Surgeon's Certificate No.**
17 **A 104336,**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18 Respondent.

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

22 **PARTIES**

23 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
24 California (Board).¹ This action was brought by then Complainant Christine J. Lally, Interim
25 Executive Director solely in her official capacity. Complainant is represented in this matter by
26 Xavier Becerra, Attorney General of the State of California, by LeAnna E. Shields, Deputy
27 Attorney General.

28 ¹ Mr. Prasifka became the Executive Director of the Medical Board on June 15, 2020.

2. Respondent Ruben Gamez, M.D. (Respondent) is represented in this proceeding by attorney Courtney E. Pilchman, Esq., with Pilchman & Kay, PLC, whose address is 2030 Main Street, Suite 1300, Irvine CA 92614.

3. On or about June 11, 2008, the Board issued Physician's and Surgeon's Certificate No. A 104336 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-054158, and will expire on September 30, 2021, unless renewed.

JURISDICTION

4. On May 22, 2020, Accusation No. 800-2019-054158 was filed before the Board, and is currently pending against Respondent. On May 22, 2020, Accusation No. 800-2019-054158 and all other statutorily required documents were properly served on Respondent. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A true and correct copy of Accusation No. 800-2019-054158 is attached as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 800-2019-054158. Respondent has also carefully read, fully discussed with his counsel, and fully 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. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 800-2019-054158 and that he has thereby subjected his Physician's and Surgeon's Certificate
4 No. A 104336 to disciplinary action.

5 10. Respondent agrees that his Physician's and Surgeon's Certificate No. A 104336 is
6 subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in
7 the Disciplinary Order below.

8 **CONTINGENCY**

9 11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
10 and void and not binding upon the parties unless approved and adopted by the Board, except for
11 this paragraph, which shall remain in full force and effect. Respondent fully understands and
12 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
13 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
14 the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify
15 the Board, any member thereof, and/or any other person from future participation in this or any
16 other matter affecting or involving Respondent. In the event that the Board does not, in its
17 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
18 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
19 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
20 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
21 be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any
22 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
23 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

24 **ADDITIONAL PROVISIONS**

25 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
26 be an integrated writing representing the complete, final and exclusive embodiment of the
27 agreements of the parties in the above-entitled matter.

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

14. 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. A 104336 issued to Respondent Ruben Gamez, M.D., is hereby revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and conditions:

1. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval a community service plan in which Respondent shall, within the first 2 years of probation, provide forty (40) hours of free services (e.g., medical or nonmedical) to a community or non-profit organization. If the term of probation is designated for 2 years or less, the community service hours must be completed not later than 6 months prior to the completion of probation.

Prior to engaging in any community service, Respondent shall provide a true copy of the Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

2. 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

1 provide any information and documents that the program may deem pertinent. Respondent shall
2 successfully complete the classroom component of the program not later than six (6) months after
3 Respondent's initial enrollment, and the longitudinal component of the program not later than the
4 time specified by the program, but no later than one (1) year after attending the classroom
5 component. The professionalism program shall be at Respondent's expense and shall be in
6 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

15 3. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
16 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
17 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
18 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
19 consider any information provided by the Board or designee and any other information the
20 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
21 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
22 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
23 psychiatric evaluations and psychological testing.

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

26 4. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
27 Respondent shall submit to the Board or its designee for prior approval the name and
28 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who

1 has a doctoral degree in psychology and at least five years of postgraduate experience in the
2 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
3 undergo and continue psychotherapy treatment, including any modifications to the frequency of
4 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

5 The psychotherapist shall consider any information provided by the Board or its designee
6 and any other information the psychotherapist deems relevant and shall furnish a written
7 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
8 psychotherapist with any information and documents that the psychotherapist may deem
9 pertinent.

10 Respondent shall have the treating psychotherapist submit quarterly status reports to the
11 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
12 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
13 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
14 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
15 period of probation shall be extended until the Board determines that Respondent is mentally fit
16 to resume the practice of medicine without restrictions..

17 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

18 5. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
19 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
20 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
21 who shall consider any information provided by the Board or designee and any other information
22 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
23 designee. Respondent shall provide the evaluating physician with any information and
24 documentation that the evaluating physician may deem pertinent.

25 Following the evaluation, Respondent shall comply with all restrictions or conditions
26 recommended by the evaluating physician within 15 calendar days after being notified by the
27 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
28 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the

1 Board or its designee for prior approval the name and qualifications of a California licensed
2 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
3 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
4 further notice from the Board or its designee.

5 The treating physician shall consider any information provided by the Board or its designee
6 or any other information the treating physician may deem pertinent prior to commencement of
7 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
8 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
9 Respondent shall provide the Board or its designee with any and all medical records pertaining to
10 treatment that the Board or its designee deems necessary.

11 If, prior to the completion of probation, Respondent is found to be physically incapable of
12 resuming the practice of medicine without restrictions, the Board shall retain continuing
13 jurisdiction over Respondent's license and the period of probation shall be extended until the
14 Board determines that Respondent is physically capable of resuming the practice of medicine
15 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

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

25 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
26 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
27 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
28 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role

1 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
2 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
3 signed statement for approval by the Board or its designee.

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

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

13 The monitor(s) shall submit a quarterly written report to the Board or its designee which
14 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
15 are within the standards of practice of medicine, and whether Respondent is practicing medicine
16 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
17 that the monitor submits the quarterly written reports to the Board or its designee within 10
18 calendar days after the end of the preceding quarter.

19 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
20 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
21 name and qualifications of a replacement monitor who will be assuming that responsibility within
22 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
23 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
24 notification from the Board or its designee to cease the practice of medicine within three (3)
25 calendar days after being so notified. Respondent shall cease the practice of medicine until a
26 replacement monitor is approved and assumes monitoring responsibility.

27 In lieu of a monitor, Respondent may participate in a professional enhancement program
28 approved in advance by the Board or its designee that includes, at minimum, quarterly chart

1 review, semi-annual practice assessment, and semi-annual review of professional growth and
2 education. Respondent shall participate in the professional enhancement program at Respondent's
3 expense during the term of probation.

4 7. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
5 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
6 where: 1) Respondent merely shares office space with another physician but is not affiliated for
7 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
8 location.

9 If Respondent fails to establish a practice with another physician or secure employment in
10 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
11 Respondent shall receive a notification from the Board or its designee to cease the practice of
12 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
13 practice until an appropriate practice setting is established.

14 If, during the course of the probation, the Respondent's practice setting changes and the
15 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
16 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
17 If Respondent fails to establish a practice with another physician or secure employment in an
18 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
19 shall receive a notification from the Board or its designee to cease the practice of medicine within
20 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
21 appropriate practice setting is established.

22 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
23 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
24 Chief Executive Officer at every hospital where privileges or membership are extended to
25 Respondent, at any other facility where Respondent engages in the practice of medicine,
26 including all physician and locum tenens registries or other similar agencies, and to the Chief
27 Executive Officer at every insurance carrier which extends malpractice insurance coverage to

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1 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
2 calendar days.

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

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

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

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

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

15 12. GENERAL PROBATION REQUIREMENTS.

16 Compliance with Probation Unit

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

18 Address Changes

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

24 Place of Practice

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

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1 License Renewal

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

4 Travel or Residence Outside California

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

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

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

14 14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
15 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
16 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
17 defined as any period of time Respondent is not practicing medicine as defined in Business and
18 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
19 patient care, clinical activity or teaching, or other activity as approved by the Board. If
20 Respondent resides in California and is considered to be in non-practice, Respondent shall
21 comply with all terms and conditions of probation. All time spent in an intensive training
22 program which has been approved by the Board or its designee shall not be considered non-
23 practice and does not relieve Respondent from complying with all the terms and conditions of
24 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
25 on probation with the medical licensing authority of that state or jurisdiction shall not be
26 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
27 period of non-practice.

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

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

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

8 Periods of non-practice for a Respondent residing outside of California will relieve
9 Respondent of the responsibility to comply with the probationary terms and conditions with the
10 exception of this condition and the following terms and conditions of probation: Obey All Laws;
11 General Probation Requirements; Quarterly Declarations.

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

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

23 17. LICENSE SURRENDER. Following the effective date of this Decision, if
24 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
25 the terms and conditions of probation, Respondent may request to surrender his or her license.
26 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
27 determining whether or not to grant the request, or to take any other action deemed appropriate
28 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent

1 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
2 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
3 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
4 application shall be treated as a petition for reinstatement of a revoked certificate.

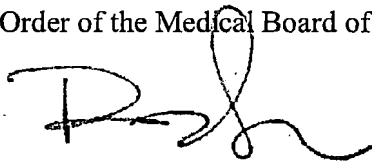
5 18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
6 with probation monitoring each and every year of probation, as designated by the Board, which
7 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
8 California and delivered to the Board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

10 19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
11 a new license or certification, or petition for reinstatement of a license, by any other health care
12 licensing action agency in the State of California, all of the charges and allegations contained in
13 Accusation No. 800-2019-054158 shall be deemed to be true, correct, and admitted by
14 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
15 restrict license.

16 **ACCEPTANCE**

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
18 discussed it with my attorney, Courtney E. Pilchman, Esq. I fully understand the stipulation and
19 the effect it will have on my Physician's and Surgeon's Certificate No. A 104336. I enter into
20 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
21 agree to be bound by the Decision and Order of the Medical Board of California.

22
23 DATED: 10/23/20



24 RUBEN GAMEZ, M.D.
25 Respondent

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1 I have read and fully discussed with Respondent Ruben Gamez, M.D., the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4
5 DATED: 10/23/20


COURTNEY E. PILCHMAN
Attorney for Respondent


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7
8 **ENDORSEMENT**

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

11 DATED: Oct. 23, 2020

Respectfully submitted,

12
13 XAVIER BECERRA
Attorney General of California
14 MATTHEW M. DAVIS
Supervising Deputy Attorney General

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16 
LEANNA E. SHIELDS
17 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2019-054158

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Attorney General of California
2 MATTHEW M. DAVIS
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2019-054158

14 **RUBEN GAMEZ, M.D.**
80 Empire Drive
15 Lake Forest, CA 92630-2244

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
No. A 104336,

17 Respondent.
18

19
20 **PARTIES**

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

24 2. On or about June 11, 2008, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A 104336 to Ruben Gamez, M.D. (Respondent). The Physician's and Surgeon's
26 Certificate will expire on September 30, 2021, unless renewed.

27 ///

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1 JURISDICTION

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

5 4. Section 822 of the Code states:

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

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

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

12 (c) Placing the licentiate on probation.

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

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

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

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

26 (1) Have his or her license revoked upon order of the board.

27 (2) Have his or her right to practice suspended for a period not to exceed one
28 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. The public reprimand may include a
requirement that the licensee complete relevant educational courses approved by the
board.

(5) Have any other action taken in relation to discipline as part of an order of
probation, as the board or an administrative law judge may deem proper.

...

1 6. Section 2234 of the Code, states, in pertinent part:

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

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

7 ...

8 7. Section 2236 of the Code states:

9 (a) The conviction of any offense substantially related to the qualifications,
10 functions, or duties of a physician and surgeon constitutes unprofessional conduct
11 within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record
12 of conviction shall be conclusive evidence only of the fact that the conviction
13 occurred.

14 ...

15 (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
16 deemed to be a conviction within the meaning of this section and Section 2236.1.
17 The record of conviction shall be conclusive evidence of the fact that the conviction
18 occurred.

19 8. California Code of Regulations, title 16, section 1360, states:

20 For the purposes of denial, suspension or revocation of a license, certificate
21 or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a
22 crime or act shall be considered to be substantially related to the qualifications,
23 functions or duties of a person holding a license, certificate or permit under the
24 Medical Practice Act if to a substantial degree it evidences present or potential
25 unfitness of a person holding a license, certificate or permit to perform the functions
26 authorized by the license, certificate or permit in a manner consistent with the public
27 health, safety or welfare. Such crimes or acts shall include but not be limited to the
28 following: Violating or attempting to violate, directly or indirectly, or assisting in or
29 abetting the violation of, or conspiring to violate any provision of the Medical
30 Practice Act.

31 9. Unprofessional conduct under Business and Professions Code section 2234 is conduct
32 which breaches the rules or ethical code of the medical profession, or conduct which is
33 unbecoming a member in good standing of the medical profession, and which demonstrates an
34 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
35 575.)

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Crime Substantially Related to the Qualifications, Functions**
3 **or Duties of a Physician and Surgeon)**

4 10. Respondent has subjected his Physician's and Surgeon's Certificate No. A 104336 to
5 disciplinary action under sections 2227 and 2234, as defined by 2236, of the Code, and section
6 1360 of title 16 of the California Code of Regulations, in that he was convicted of a crime
7 substantially related to the qualifications, functions, or duties of a physician and surgeon, as more
8 particularly alleged hereinafter:

9 11. On or about March 16, 2019, Respondent cornered his wife in the bathroom and
10 broke her watch when she attempted to call 911 using her watch. Respondent then broke a
11 cellular phone his son was using in attempt to call 911. Respondent then took three kitchen
12 knives and approached his wife while wielding the knives in a threatening manner. Respondent
13 pinned his wife against the wall and began cutting his own wrist area. When deputies arrived on
14 scene, Respondent refused to obey commands to drop the knives until he was struck with a Taser.

15 12. On or about March 25, 2019, in the case entitled *The People of the State of California*
16 *v. Ruben Gamez*, Superior Court of California, County of Orange, Case No. 19HF0413, a
17 criminal complaint was filed charging Respondent with one (1) count of violating section 245,
18 subdivision (a)(1) of the Penal Code (Assault with a Deadly Weapon), a felony, one (1) count of
19 violating section 273.5, subdivision (a) of the Penal Code (Domestic Battery with Corporal
20 Injury), a felony, and one (1) count of violating section 148, subdivision (a)(1) of the Penal Code
21 (Resisting and Obstructing a Police Officer in the Discharge of their Duties), a misdemeanor.
22 The criminal complaint also charged Respondent with an enhancement pursuant to section 12022,
23 subdivision (b)(1), of the Penal Code (Personal Use of a Deadly Weapon).

24 13. On or about November 19, 2019, Respondent signed a change of plea form admitting
25 guilt as to one (1) count of violating section 245, subdivision (a)(1), of the Penal Code (Assault
26 with a Deadly Weapon), as a felony.

27 14. On or about November 19, 2019, Respondent's guilty plea was accepted by the Court
28 and Respondent was sentenced to criminal probation for a period of three (3) years with various

1 terms and conditions of probation, including, but not limited to, 180 days custody, waiver of his
2 Fourth Amendment rights, do not possess any dangerous or deadly weapon or firearm, and attend
3 a 52-week Batterer's Treatment Program.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Violation or Violations of Provisions of the Medical Practice Act)**

6 15. Respondent has further subjected his Physician's and Surgeon's Certificate No. A
7 104336 to disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (a),
8 of the Code, in that he has committed a violation or violations of provisions of the Medical
9 Practice Act, as more particularly alleged in paragraphs 10 through 14, above, which are hereby
10 incorporated by reference and realleged as if fully set forth herein.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(General Unprofessional Conduct)**

13 16. Respondent has further subjected his Physician's and Surgeon's Certificate No. A
14 104336 to disciplinary action under sections 2227 and 2234, in that he engaged in conduct which
15 breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a
16 member in good standing of the medical profession, and which demonstrates an unfitness to
17 practice medicine, as more particularly alleged in paragraphs 10 through 15, above, which are
18 hereby incorporated by reference and realleged as if fully set forth herein.

19 **SECTION 822 CAUSE FOR ACTION**

20 **(Mental Illness Affecting Competency)**

21 17. Respondent is subject to action under section 822 of the Code in that his ability to
22 practice medicine safely is impaired due to mental illness affecting competency, as more
23 particularly alleged herein after:

24 18. Paragraphs 10 through 14, above, are hereby incorporated by reference and realleged
25 as if fully set forth herein.

26 19. On or about November 26, 2019, Respondent participated in a mental evaluation by a
27 Board-appointed psychiatrist (M.K.).

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20. On or about December 1, 2019, M.K. prepared a summary of his evaluation regarding Respondent, finding Respondent should participate in an anger management treatment program, marital counseling, and psychiatric treatment in order to practice medicine safely.

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 No. A 104336, issued to Respondent Ruben Gamez, M.D.;

2. Revoking, suspending or denying approval of Respondent Ruben Gamez, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Ruben Gamez, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: MAY 22, 2020


CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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