

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CHRIS LEONG
Deputy Attorney General
4 State Bar No. 141079
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-2575
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 04-2013-234367

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

ACCUSATION

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

16 Respondent.
17

18
19 Complainant alleges:

20 **PARTIES**

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

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

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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 2227 of the Code states, in pertinent part:

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

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

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

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

15 “(4) Be publicly reprimanded by the Board.

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

18 5. Section 2234 of the Code, states:

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

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

24 “(b) Gross negligence.

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

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

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

8 (d) Incompetence.

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

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

12 “....”

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

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

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Gross Negligence)

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

25 Patient M.M.

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

27
28 _____
¹ The names of the patient, friend and former girlfriend are reduced to initials for privacy.

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

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

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

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

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

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

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

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

1 Former Girlfriend S.P.

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

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

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

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

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

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

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

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

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

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

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

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

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Repeated Negligent Acts)

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

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

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

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

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

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

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

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

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Dishonest Acts)

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

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

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

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

10 **FOURTH CAUSE FOR DISCIPLINE**

11 (Failure to Maintain Adequate and Accurate Records)

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

17 **FIFTH CAUSE FOR DISCIPLINE**

18 (Unprofessional Conduct)

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

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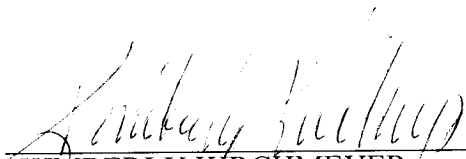
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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G80178, issued to Robert T. Perez, M.D.;
2. Revoking, suspending or denying approval of Robert T. Perez, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering Robert T. Perez, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: May 5, 2015


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

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