

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

In the Matter of the Second Amended)
Accusation Against:)

Khristine Eroshevich, M.D.)

Case No. 17-2009-197998

Physician's and Surgeon's)
Certificate No. C 37980)

Respondent)
_____)

DECISION

The attached Proposed Stipulation 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 March 30, 2012.

IT IS SO ORDERED: March 2, 2012.

MEDICAL BOARD OF CALIFORNIA



Shelton Duruisseau, Ph.D., Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 State Bar No. 71375
California Department of Justice
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2543
Facsimile: (213) 897-9395
6 *Attorneys for Complainant*

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

10 In the Matter of the Second Amended
Accusation Against:

11 **KHRISTINE EROSHEVICH, M.D.**
12 **3656 Avenida Del Sol**
13 **Studio City, CA 91604-4020**

14 **Physician's and Surgeon's Certificate No. C**
15 **37980**

16 Respondent.

Case No. 17-2009-197998

OAH No. 2011080397

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

19 PARTIES

20 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of
21 California. She brought this action solely in her official capacity and is represented in this matter
22 by Kamala D. Harris, Attorney General of the State of California, by E. A. Jones III, Supervising
23 Deputy Attorney General.

24 2. Respondent Khristine Eroshevich, M.D. (Respondent) is represented in this
25 proceeding by attorney Bradley Wm. Brunon, whose address is: 12100 Wilshire Blvd., Suite
26 1960, Los Angeles, CA 90025

27 3. On or about May 8, 1978, the Medical Board of California issued Physician's and
28

1 Surgeon's Certificate No. C 37980 to Khristine Eroshevich, M.D. (Respondent). The Physician's
2 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
3 in Second Amended Accusation No. 17-2009-197998 and will expire on November 30, 2013,
4 unless renewed.

5 JURISDICTION

6 4. Second Amended Accusation No. 17-2009-197998 was filed before the Medical
7 Board of California, Department of Consumer Affairs (Board), and is currently pending against
8 Respondent. The Second Amended Accusation and all other statutorily required documents were
9 properly served on Respondent on October 12, 2011. Respondent timely filed her Notice of
10 Defense contesting the original Accusation. A copy of Second Amended Accusation No. 17-
11 2009-197998 is attached as Exhibit A and is incorporated herein by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Second Amended Accusation No. 17-2009-197998. Respondent has
15 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
16 Settlement and Disciplinary Order.

17 6. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Second Amended Accusation; the right to be
19 represented by counsel at her own expense; the right to confront and cross-examine the witnesses
20 against her; the right to present evidence and to testify on her own behalf; the right to the issuance
21 of subpoenas to compel the attendance of witnesses and the production of documents; the right to
22 reconsideration and court review of an adverse decision; and all other rights accorded by the
23 California Administrative Procedure Act and other applicable laws.

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

26 CULPABILITY

27 8. Respondent admits the truth of each and every charge and allegation in the First and
28 Sixth Causes for Discipline in Second Amended Accusation No. 17-2009-197998.

9. Respondent agrees that if she ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Second Amended Accusation No. 17-2009-197998 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that

1 the Board may, without further notice or formal proceeding, issue and enter the following
2 Disciplinary Order:

3 **DISCIPLINARY ORDER**

4 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 37980 issued
5 to Respondent Khristine Eroshevich, M.D. (Respondent) is revoked. However, the revocation is
6 stayed and Respondent is placed on probation for five (5) years on the following terms and
7 conditions.

8 1. ACTUAL SUSPENSION As part of probation, Respondent is suspended from the
9 practice of medicine for 90 days beginning the forty-fifth (45th) day after the effective date of this
10 decision.

11 2. EDUCATION COURSE Within one year of the effective date of this Decision, and
12 on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior
13 approval educational program(s) or course(s) which shall not be less than 25 hours per year, for
14 each year of probation starting in the second year of probation. The educational program(s) or
15 course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be
16 Category I certified. The educational program(s) or course(s) shall be at Respondent's expense
17 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
18 licensure. Following the completion of each course, the Board or its designee may administer an
19 examination to test Respondent's knowledge of the course. Starting with the second year of
20 probation, Respondent shall provide proof of attendance for 50 hours of continuing medical
21 education of which 25 hours were in satisfaction of this condition.

22 3. PRESCRIBING PRACTICES COURSE Within 60 calendar days of the effective
23 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the
24 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,
25 University of California, San Diego School of Medicine (Program), at Respondent's expense,
26 approved in advance by the Board or its designee. Respondent shall provide the Program with
27 any information and documents that the Program may deem pertinent. Respondent shall
28 participate in and successfully complete the classroom component of the course not later than six

1 (6) months after Respondent's initial enrollment. Respondent shall successfully complete any
2 other component of the course within one (1) year of enrollment. Failure to successfully
3 complete the course during the first 6 months of probation is a violation of probation.

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

9 Respondent shall submit a certification of successful completion to the Board or its
10 designee not later than 15 calendar days after successfully completing the course, or not later than
11 15 calendar days after the effective date of the Decision, whichever is later.

12 4. PROFESSIONALISM PROGRAM (ETHICS COURSE) Within 60 calendar days of
13 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
14 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.
15 Respondent shall participate in and successfully complete that program. Respondent shall
16 provide any information and documents that the program may deem pertinent. Respondent shall
17 successfully complete the classroom component of the program not later than six (6) months after
18 Respondent's initial enrollment, and the longitudinal component of the program not later than the
19 time specified by the program, but no later than one (1) year after attending the classroom
20 component.

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

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

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

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

12 6. MEDICAL EVALUATION AND TREATMENT Within 30 calendar days of the
13 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
14 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
15 who shall consider any information provided by the Board or designee, and any other information
16 the evaluating physician deems relevant, and shall furnish a medical report to the Board or its
17 designee. Respondent shall provide the evaluating physician any information and documentation
18 that the evaluating physician deems pertinent.

19 Following the evaluation, Respondent shall comply with all restrictions or conditions
20 recommended by the evaluating physician within 15 calendar days after being notified by the
21 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
22 treatment, Respondent shall, within 30 calendar days of the requirement notice, submit to the
23 Board or its designee for prior approval the name and qualifications of a California licensed
24 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
25 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
26 further notice from the Board or its designee.

27 The treating physician shall consider any information provided by the Board or its designee
28 or any other information the treating physician may deem pertinent prior to commencement of

1 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
2 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
3 Respondent shall provide the Board or its designee with any and all medical records pertaining to
4 treatment that the Board or its designee deems necessary.

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

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

20 The Board or its designee shall provide the approved monitor with copies of the Decision
21 and Second Amended Accusation, and a proposed monitoring plan. Within 15 calendar days of
22 receipt of the Decision, Second Amended Accusation, and proposed monitoring plan, the monitor
23 shall submit a signed statement that the monitor has read the Decision and Second Amended
24 Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed
25 monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall
26 submit a revised monitoring plan with the signed statement.

27 Within 60 calendar days of the effective date of this Decision, and continuing throughout
28 probation, Respondent's practice and billing shall be monitored by the approved monitor.

1 Respondent shall make all records available for immediate inspection and copying on the
2 premises by the monitor at all times during business hours, and shall retain the records for the
3 entire term of probation.

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

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

15 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
16 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
17 name and qualifications of a replacement monitor who will be assuming that responsibility within
18 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 days
19 of the resignation or unavailability of the monitor, Respondent shall receive a notification from
20 the Board or its designee to cease the practice of medicine within three (3) calendar days after
21 being so notified. Respondent shall cease the practice until a replacement monitor is approved
22 and assumes monitoring responsibility.

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

1 8. NOTIFICATION Within seven days of the effective date of this Decision, the
2 Respondent shall provide a true copy of the Decision and Second Amended Accusation to the
3 Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership
4 are extended to Respondent, at any other facility where Respondent engages in the practice of
5 medicine, including all physician and locum tenens registries or other similar agencies, and to the
6 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
7 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
8 15 calendar days.

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

10 9. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, Respondent is
11 prohibited from supervising physician assistants.

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

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

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

20 12. GENERAL PROBATION REQUIREMENTS

21 *Compliance with Probation Unit*

22 Respondent shall comply with the Board's probation unit and all terms and condition of this
23 Decision.

24 *Address Changes*

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

1 and Professions Code section 2021(b).

2 *Place of Practice*

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

6 *License Renewal*

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

9 *Travel or Residence Outside California*

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

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

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

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

not be considered as a period of non-practice.

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

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

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

Periods non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws and General Probation Requirements.

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

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

17. LICENSE SURRENDER Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the

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

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

9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, Bradley Wm. Brunon. I understand the stipulation and the effect it
12 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
13 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
14 Decision and Order of the Medical Board of California.

15
16
17
18 DATED: _____

19 KHRISTINE EROSHEVICH, M.D.
Respondent

20
21 I have read and fully discussed with Respondent Khristine Eroshevich, M.D. the terms and
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
23 I approve its form and content.

24
25
26 DATED: _____

27 BRADLEY Wm. BRUNON
Attorney for Respondent

Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Bradley Wm. Brunon. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: January 18, 2012

KHRISTINE EROSHEVICH, M.D.
Respondent

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

DATED: January 18, 2012

BRADLEY Wm BRUNON
Attorney for Respondent

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ENDORSEMENT

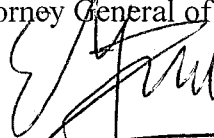
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated:

1/19/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California



E. A. JONES III
Supervising Deputy Attorney General
Attorneys for Complainant

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51062574.doc

Exhibit A

Second Amended Accusation No. 17-2009-197998

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 State Bar No. 71375
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO OCTOBER 12 2011
BY: K. MONTALBANO ANALYST

6
7 **BEFORE THE**
8 **MEDICAL BOARD OF CALIFORNIA**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Second Amended
12 Accusation Against:

Case No. 17-2009-197998

13 **KHRISTINE ELAINE EROSHEVICH, M.D.**
14 **501 South Beverly Drive, 3rd Floor**
15 **Beverly Hills, CA 90212**

Second Amended
ACCUSATION

16 **Physician's and Surgeon's Certificate No.**
17 **C37980**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about May 8, 1978, the Medical Board of California issued Physician's and
25 Surgeon's Certificate Number C37980 to Khristine Elaine Eroshevich, M.D. (Respondent). The
26 Physician's and Surgeon's Certificate will expire, unless renewed, on November 30, 2013.

27 **JURISDICTION**

28 3. This Second Amended Accusation is brought before the Medical Board of California
(Board), Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2227 of the Code states:

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

8 "(1) Have his or her license revoked upon order of the division.

9 "(2) Have his or her right to practice suspended for a period not to exceed one year
10 upon order of the division.

11 "(3) Be placed on probation and be required to pay the costs of probation monitoring
12 upon order of the division.

13 "(4) Be publicly reprimanded by the division.

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

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

22 5. Section 2234 of the Code states:

23 "The Division of Medical Quality¹ shall take action against any licensee who is
24 charged with unprofessional conduct. In addition to other provisions of this article,
25 unprofessional conduct includes, but is not limited to, the following:

26 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting

27 ¹ References to the Division of Medical Quality are deemed to refer to the Medical Board
28 of California pursuant to Business and Professions Code section 2002.

1 the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the
2 Medical Practice Act].

3 "(b) Gross negligence.

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

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

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

14 "(d) Incompetence.

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

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

18 6. Section 2261 of the Code states:

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

22 7. Labor Code section 4628 provides as follows:

23 "(a) Except as provided in subdivision (c), no person, other than the physician who
24 signs the medical-legal report, except a nurse performing those functions routinely
25 performed by a nurse, such as taking blood pressure, shall examine the injured employee or
26 participate in the nonclerical preparation of the report, including all of the following:

27 (1) Taking a complete history.

28 (2) Reviewing and summarizing prior medical records.

1 (3) Composing and drafting the conclusions of the report.

2 “(b) The report shall disclose the date when and location where the evaluation was
3 performed; that the physician or physicians signing the report actually performed the
4 evaluation; whether the evaluation performed and the time spent performing the evaluation
5 was in compliance with the guidelines established by the administrative director pursuant to
6 paragraph (5) of subdivision (j) of Section 139.2 or Section 5307.6 and shall disclose the
7 name and qualifications of each person who performed any services in connection with the
8 report, including diagnostic studies, other than its clerical preparation. If the report
9 discloses that the evaluation performed or the time spent performing the evaluation was not
10 in compliance with the guidelines established by the administrative director, the report shall
11 explain, in detail, any variance and the reason or reasons therefor.

12 “(c) If the initial outline of a patient's history or excerpting of prior medical records is
13 not done by the physician, the physician shall review the excerpts and the entire outline and
14 shall make additional inquiries and examinations as are necessary and appropriate to
15 identify and determine the relevant medical issues.

16 “(d) No amount may be charged in excess of the direct charges for the physician's
17 professional services and the reasonable costs of laboratory examinations, diagnostic
18 studies, and other medical tests, and reasonable costs of clerical expense necessary to
19 producing the report. Direct charges for the physician's professional services shall include
20 reasonable overhead expense.

21 “(e) Failure to comply with the requirements of this section shall make the report
22 inadmissible as evidence and shall eliminate any liability for payment of any medical-legal
23 expense incurred in connection with the report.

24 “(f) Knowing failure to comply with the requirements of this section shall subject the
25 physician to a civil penalty of up to one thousand dollars (\$1,000) for each violation to be
26 assessed by a workers' compensation judge or the appeals board. All civil penalties
27 collected under this section shall be deposited in the Workers' Compensation
28 Administration Revolving Fund.

1 “(g) A physician who is assessed a civil penalty under this section may be terminated,
2 suspended, or placed on probation as a qualified medical evaluator pursuant to subdivisions
3 (k) and (l) of Section 139.2.

4 “(h) Knowing failure to comply with the requirements of this section shall subject the
5 physician to contempt pursuant to the judicial powers vested in the appeals board.

6 “(i) Any person billing for medical-legal evaluations, diagnostic procedures, or
7 diagnostic services performed by persons other than those employed by the reporting
8 physician or physicians, or a medical corporation owned by the reporting physician or
9 physicians shall specify the amount paid or to be paid to those persons for the evaluations,
10 procedures, or services. This subdivision shall not apply to any procedure or service
11 defined or valued pursuant to Section 5307.1.

12 “(j) The report shall contain a declaration by the physician signing the report, under
13 penalty of perjury, stating:

14 ‘I declare under penalty of perjury that the information contained in this report
15 and its attachments, if any, is true and correct to the best of my knowledge and belief,
16 except as to information that I have indicated I received from others. As to that
17 information, I declare under penalty of perjury that the information accurately
18 describes the information provided to me and, except as noted herein, that I believe it
19 to be true.’

20 The foregoing declaration shall be dated and signed by the reporting physician and shall
21 indicate the county wherein it was signed.

22 “(k) The physician shall provide a curriculum vitae upon request by a party and
23 include a statement concerning the percent of the physician's total practice time that is
24 annually devoted to medical treatment.”

25 8. Title 8, California Code of Regulations, section 49.8 provides as follows:

26 “A medical evaluation concerning a claim for psychiatric injury (whether specific
27
28

1 or cumulative in nature) shall not be completed by a QME²] in less than one hour of face to
2 face time. One hour is considered the minimum allowable face to face time for an
3 uncomplicated evaluation. The evaluator shall state in the evaluation report the amount of
4 face to face time actually spent with the injured worker and explain in detail any variance
5 below the minimum amount of face to face time stated in this regulation.”

6 9. Title 8, California Code of Regulations, section 49 provides in pertinent part as
7 follows:

8 “(b) Face to Face time. “Face to face time” means only that time the evaluator is
9 present with an injured worker. This includes the time in which the evaluator performs such
10 tasks as taking a history, performing a physical examination or discussing the worker's
11 medical condition with the worker. Face to face time excludes time spent on research,
12 records review and report writing. Any time spent by the injured worker with clinical or
13 clerical staff who perform diagnostic or laboratory tests (including blood tests or x-rays) or
14 time spent by the injured worker in a waiting room or other area outside the evaluation
15 room is not included in face to face time.”

16 10. Penal Code section 118, subdivision (a), provides as follows:

17 “Every person who, having taken an oath that he or she will testify, declare, depose,
18 or certify truly before any competent tribunal, officer, or person, in any of the cases in
19 which the oath may by law of the State of California be administered, willfully and contrary
20 to the oath, states as true any material matter which he or she knows to be false, and every
21 person who testifies, declares, deposes, or certifies under penalty of perjury in any of the
22 cases in which the testimony, declarations, depositions, or certification is permitted by law
23 of the State of California under penalty of perjury and willfully states as true any material
24 matter which he or she knows to be false, is guilty of perjury.

25 “This subdivision is applicable whether the statement, or the testimony, declaration,
26 deposition, or certification is made or subscribed within or without the State of California.”

27 _____
28 ² Qualified Medical Examiner.

11. Section 2236 of the Code states as follows:

“(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

“(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

“(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

FIRST CAUSE FOR DISCIPLINE

(Dishonest Acts)

12. Respondent is subject to disciplinary action under section 2234, subdivision (e), of the Code in that she engaged in dishonest acts by making false statements in a psychiatric report and billing statement regarding a workers compensation claimant. The circumstances are as follows:

Claimant T.P.

A. On or about September 11, 2006, workers compensation claimant T.P. was

1 scheduled for an October 12, 2006, psychiatric evaluation with Respondent. The evaluation
2 was subsequently rescheduled to November 2, 2006.

3 B. On or about November 2, 2006, claimant T.P. presented to Respondent's office
4 for a psychiatric evaluation. An employee of Respondent, K. Cahoon, an unlicensed and/or
5 non-certified history taker, met with the claimant and took a psychiatric history. A
6 colleague of Respondent, John A. Cahman, Ph.D., met with the claimant and performed a
7 mental status exam. The claimant did not meet with Respondent face to face at any time.

8 C. On or about November 2, 2006, Respondent signed a Preliminary Report
9 regarding claimant T.P. in which Respondent stated, "The above named patient was
10 examined by me." This statement was false since in truth and fact, Respondent did not
11 examine the patient.

12 D. On or about November 23, 2006, Respondent provided a 38 page report,
13 entitled "Qualified Medical Evaluation: Psychiatry," regarding claimant T.P. to the State
14 Compensation Insurance Fund. Respondent declared under penalty of perjury as follows:
15 "I, Khristine Eroshevich, M.D., Ph.D., personally took the pertinent history of the applicant
16 and performed the psychiatric examination." This statement was false since in truth and
17 fact, Respondent did not personally take the history nor personally perform the psychiatric
18 examination of claimant T.P. Respondent in the same report also declared under penalty of
19 perjury that "[A]ll tests were administered, scored and interpreted by me (unless otherwise
20 indicated)." This statement was false since in truth and fact, Respondent did not administer
21 any of the tests. Respondent signed the name of John A. Cahman, Ph.D. to the "Qualified
22 Medical Evaluation: Psychiatry" regarding claimant T.P. without the authorization of John
23 A. Cahman, Ph.D.

24 E. On or about November 23, 2006, Respondent billed the State Compensation
25 Insurance Fund for an Initial Complex Psychiatric Evaluation. On the billing statement was
26 written the following: "This report constitutes an ML 103 Complex Med-Legal Evaluation.
27 Over four hours were spent in interviewing the applicant and preparing this report....This is
28 a psychiatric evaluation." This billing statement was false since in truth and fact

1 Respondent did not interview the applicant, claimant T.P.

2 F. On or about August 28, 2007, Respondent issued a supplemental report, under
3 penalty of perjury, in connection with her evaluation of claimant T.P., in which she
4 admitted that, contrary to her November 23, 2006, statement under penalty of perjury, John
5 A. Cahman, Ph.D. performed the clinical interview of claimant T.P. and that K. Cahoon
6 "assisted in obtaining information" from the claimant, which information was reviewed by
7 John A. Cahman, Ph.D. with claimant T.P.

8 SECOND CAUSE FOR DISCIPLINE

9 (Creation of a False Record)

10 13. Respondent is subject to disciplinary action under section 2261 of the Code in that
11 she knowingly made and/or signed documents (i.e., a psychiatric report and related documents)
12 directly or indirectly related to the practice of medicine which falsely represented the existence or
13 nonexistence of a state of facts. The circumstances are as follows:

14 A. The facts and circumstances set forth in paragraph 12 above are incorporated
15 here as if fully set forth.

16 THIRD CAUSE FOR DISCIPLINE

17 (Dishonest Acts)

18 14. Respondent is subject to disciplinary action under section 2234, subdivision (e), of
19 the Code in that she engaged in dishonest acts by committing perjury within the meaning of Penal
20 Code section 118, subdivision (a). The circumstances are as follows:

21 A. The facts and circumstances set forth in paragraph 12.A. through 12.D. above
22 are incorporated here as if fully set forth.

23 FOURTH CAUSE FOR DISCIPLINE

24 (Gross Negligence)

25 15. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
26 the Code in that she was grossly negligent in performing evaluations of two individuals. The
27 circumstances are as follows:

28 A. The facts and circumstances set forth in paragraph 12 above are incorporated

1 here as if fully set forth.

2 B. On or about November 2, 2006, and thereafter, Respondent was grossly
3 negligent when she failed to conduct a face-to-face psychiatric examination of claimant
4 T.P. in connection with her "Qualified Medical Evaluation: Psychiatry," regarding
5 claimant T.P.

6 C. On or about November 23, 2006, Respondent was grossly negligent when she
7 authored the "Qualified Medical Evaluation: Psychiatry" regarding claimant T.P. without
8 first having conducted a face-to-face psychiatric examination of claimant T.P.

9 D. On or about November 23, 2006, Respondent was grossly negligent when she
10 signed under penalty of perjury the "Qualified Medical Evaluation: Psychiatry" regarding
11 claimant T.P. in which she declared that she had personally examined claimant T.P. when
12 in fact she had not.

13 E. On or about November 23, 2006, Respondent was grossly negligent when she
14 signed the name of John A. Cahman, Ph.D. to the "Qualified Medical Evaluation:
15 Psychiatry" regarding claimant T.P. without the authorization of John A. Cahman, Ph.D.

16 F. On or about November 23, 2006, Respondent was grossly negligent when she
17 billed for services that she did not personally perform in connection with the "Qualified
18 Medical Evaluation: Psychiatry" regarding claimant T.P. and overstated the quantity of
19 time spent in rendering those services.

20 FIFTH CAUSE FOR DISCIPLINE

21 (Repeated Negligent Acts)

22 16. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
23 the Code in that she engaged in repeated negligent acts in performing evaluations of two
24 individuals. The circumstances are as follows:

25 A. The facts and circumstances set forth in paragraph 12 above are incorporated
26 here as if fully set forth.

27 B. On or about November 2, 2006, and thereafter, Respondent was negligent when
28 she failed to conduct a face-to-face psychiatric examination of claimant T.P. in connection

1 with her "Qualified Medical Evaluation: Psychiatry," regarding claimant T.P.

2 C. On or about November 23, 2006, Respondent was negligent when she authored
3 the "Qualified Medical Evaluation: Psychiatry" regarding claimant T.P. without first
4 having conducted a face-to-face psychiatric examination of claimant T.P.

5 D. On or about November 23, 2006, Respondent was negligent when she signed
6 under penalty of perjury the "Qualified Medical Evaluation: Psychiatry" regarding
7 claimant T.P. in which she declared that she had personally examined claimant T.P. when
8 in fact she had not.

9 E. On or about November 23, 2006, Respondent was negligent when she signed
10 the name of John A. Cahman, Ph.D. to the "Qualified Medical Evaluation: Psychiatry"
11 regarding claimant T.P. without the authorization of John A. Cahman, Ph.D.

12 F. On or about November 23, 2006, Respondent was negligent when she billed for
13 services that she did not personally perform in connection with the "Qualified Medical
14 Evaluation: Psychiatry" regarding claimant T.P. and overstated the quantity of time spent
15 in rendering those services.

16 SIXTH CAUSE FOR DISCIPLINE

17 (Conviction of a Crime)

18 17. Respondent is subject to disciplinary action under section 2236 of the Code in that
19 she was convicted of a crime substantially related to the qualifications, functions, or duties of a
20 physician and surgeon. The circumstances are as follows:

21 A. On or about November 21 and 24, 2006, Respondent wrote a prescription for
22 C.U. for a controlled substance, an opiate, specifically, hydrocodone and acetaminophen
23 (Vicodin) 5/500 mg tablets, quantity 50. Respondent called the prescription in to
24 Unipharma Pharmacy in Los Alamitos, California. Respondent subsequently picked up the
25 prescription from the pharmacy that same day. In truth and fact, C.U. was not and had
26 never been a patient of Respondent and had never sought such medications from
27 Respondent. The birth date provided to Unipharma in connection with the prescription for
28 C.U. was also false. The birth date provided by Respondent in connection with the

1 prescriptions was the same as her husband's birth date.

2 B. On or about March 13, 2009, in the case of *People of the State of California v.*
3 *Khristine Eroshevich, et al.*, Los Angeles County Superior Court Case No. BA353907,
4 Respondent was charged in Count 7 of a felony complaint with obtaining a prescription for
5 controlled substances, opiates, by fraud, deceit or misrepresentation in violation of Health
6 and Safety Code section 11173, subdivision (a), a felony, which conduct occurred on or
7 between October 17, 2006, and November 24, 2006.

8 C. On or about October 30, 2009, in the case of *People of the State of California v.*
9 *Khristine Eroshevich, et al.*, Los Angeles County Superior Court Case No. BA353907, after
10 a preliminary hearing, Respondent was held to answer on Count 7 of the felony complaint
11 referenced above.

12 D. On or about December 11, 2009, in the case of *People of the State of California*
13 *v. Khristine Eroshevich, et al.*, Los Angeles County Superior Court Case No. BA353907, an
14 Information was filed realleging the allegations in Count 7 of the Felony Complaint
15 referred to above.

16 E. On or about October 28, 2010, in the case of *People of the State of California v.*
17 *Khristine Eroshevich, et al.*, Los Angeles County Superior Court Case No. BA353907,
18 Respondent was convicted by jury of the allegation in Count 7 of the Information that
19 Respondent unlawfully prescribed a controlled substance, an opiate, namely, Hydrocodone
20 (Vicodin), on November 24, 2006, by fraud, deceit or misrepresentation or concealment of
21 a material fact in violation of Health and Safety Code section 11173, subdivision (a), a
22 felony.

23 F. On or about January 6, 2011, in the case of *People of the State of California v.*
24 *Khristine Eroshevich, et al.*, Los Angeles County Superior Court Case No. BA353907,
25 Count 7 was reduced to a misdemeanor and Respondent was sentenced in Count 7 to one
26 year of summary probation and ordered to pay certain fines and fees totaling \$170.00.

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1 SIXTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 18. Respondent is subject to disciplinary action under section 2234 of the Code in that he
4 engaged in unprofessional conduct. The circumstances are as follows:

5 A. The facts and circumstances set forth in paragraphs 12 through 17 above are
6 incorporated here as if fully set forth.

7 PRAYER

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

10 1. Revoking or suspending Physician's and Surgeon's Certificate Number C37980,
11 issued to Khristine Elaine Eroshevich, M.D.

12 2. Revoking, suspending or denying approval of Khristine Eroshevich, M.D.'s authority
13 to supervise physician assistants, pursuant to section 3527 of the Code;

14 3. Ordering Khristine Eroshevich, M.D., if placed on probation, to pay the Medical
15 Board of California the costs of probation monitoring;

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

17
18
19 DATED: October 12, 2011


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

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