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

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

Respondent.

18 Complainant alleges:

19 PARTIES

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

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

26 JURISDICTION

27 3. This Second Amended Accusation is brought before the Medical Board of California
28 (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 QME^[2] 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.

1 11. Section 2236 of the Code states as follows:

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

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

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

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

21 FIRST CAUSE FOR DISCIPLINE

22 (Dishonest Acts)

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

27 Claimant T.P.

28 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


20 LINDA K. WHITNEY
21 Executive Director
22 Medical Board of California
23 Department of Consumer Affairs
24 State of California
25 Complainant

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