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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Dec 28 20 17  
BY [Signature] ANALYST

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

11 In the Matter of the Accusation Against:

Case No. 800-2015-018088

12 Dirk De Brito, M.D.  
281 East Colorado Blvd. #247  
13 Pasadena, CA 91102

**A C C U S A T I O N**

14 Physician's and Surgeon's Certificate  
No. A 66604,

15 Respondent.

16  
17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about October 2, 1998, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A 66604 to Dirk De Brito, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on October 31, 2018, unless renewed.

**JURISDICTION**

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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 unless otherwise indicated.

4       4.     Section 2227 of the Code provides that a licensee who is found guilty under the  
5 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
6 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
7 action taken in relation to discipline as the Board deems proper.

8       5.     Section 2234 of the Code states:

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

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

14           “(b) Gross negligence.

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

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

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

25           “(d) Incompetence.

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

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

1           “(g) The practice of medicine from this state into another state or country without meeting  
2 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
3 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
4 proposed registration program described in Section 2052.5.

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

8           6.     Section 820 of the Code states:

9           "Whenever it appears that any person holding a license, certificate or permit under this  
10 division or under any initiative act referred to in this division may be unable to practice his or her  
11 profession safely because the licentiate's ability to practice is impaired due to mental illness, or  
12 physical illness affecting competency, the licensing agency may order the licentiate to be  
13 examined by one or more physicians and surgeons or psychologists designated by the agency.  
14 The report of the examiners shall be made available to the licentiate and may be received as direct  
15 evidence in proceedings conducted pursuant to Section 822."

16           7.     Section 822 of the Code states:

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

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

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

22           "(c) Placing the licentiate on probation.

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

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

1           8.       Section 2236 of the Code provides that conviction of any offense substantially  
2 related to the qualifications, functions or duties of a physician constitute unprofessional conduct.

3                                   **FIRST CAUSE FOR DISCIPLINE**

4                                   **(Conviction of a Crime)**

5           9.       Respondent Dirk De Brito, M.D. is subject to disciplinary action under section 2236  
6 in that he was convicted of crimes substantially related to the practice of medicine. The  
7 circumstances are as follows:

8           A.       On October 14, 2015, Respondent was involved in an altercation with a woman  
9 named victim A., who worked for him as a nanny. Respondent got a call from his son's school  
10 saying his son went to school with a dirty diaper, so Respondent called victim A. told her to come  
11 home, and said he was firing her.

12           B.       Prior to walking into the house, victim A. had a feeling something bad was going to  
13 happen so she turned on the recorder from her cell phone. When she arrived at the house,  
14 Respondent began yelling at her, grabbed her by the neck and put her in a headlock. The victim  
15 could not breathe, and pleaded with him to let her go. He then pushed her to the floor, and  
16 punched her in the face a few times. Respondent yelled at her to "grab her f----- shit". While in  
17 the bedroom he pushed the victim onto the bed and while she was trying to reach for the phone,  
18 he unplugged the phone line and slapped the victim in the face.

19           C.       Respondent was threatening victim A., telling her he was going to kill her, that he  
20 would "dig a f----- hole in the back and put you in it." Fearing for her life, victim A. got her  
21 property from her room and left the house. She ran to a neighbor who refused to help victim A.  
22 Respondent was yelling at victim A. outside to come back to his house. When she did, he took a  
23 hose and soaked her with water.

24           D.       Respondent was placed under arrest for a variety of crimes. The Los Angeles County  
25 District Attorney filed charges against Respondent in the case of *The People of the State of*  
26 *California v. Dirk De Brito*, Los Angeles Superior Court Case No. GA097514. He was charged  
27 with making criminal threats, assault, and interference with a wireless communication device. On  
28 May 2, 2017, he pled nolo contendere to making criminal threats and was sentenced to three years

1 of summary probation with a variety of conditions, including attending a 52-week anger  
2 management course.

3 E. On the evening of January 12, 2016, while out on bail, Respondent was arrested for  
4 assault with a deadly weapon. The facts leading up to the arrest are as follows: A woman named  
5 victim B., the victim in this case, was an employee of Respondent's and worked in his office for a  
6 few months. On January 12, 2016, she went to Respondent's office to return a company car and  
7 get her final paycheck. She had arranged to meet with a woman who was Respondent's human  
8 resources director. (H.R.D.)

9 F. Victim B. arrived with a friend, V. around 10:30 at night. The H.R.D. had victim B.  
10 sign paperwork prior to getting her paycheck. When victim B. signed the paperwork, the H.R.D.  
11 gave her an envelope. As victim B. and V. were walking away, Respondent drove up quickly in  
12 his car, wearing a bullet proof vest and yelled, "yeah bitch, you don't want your real check?  
13 That's a fake check." Victim B. opened the envelope and saw a blank piece of paper. Victim B.  
14 was angry so she reached over and grabbed the paper she had just given to the H.R.D.  
15 Respondent grabbed victim B.'s face and neck and threw her down to the asphalt, and then  
16 stepped on her forearm. He walked back to his car but B. tried to stop him. Respondent reached  
17 into his waistband and pulled out a black handgun, and pointed the muzzle towards the ground,  
18 and shoved victim B.

19 G. When police officers interviewed Respondent, he denied having a bullet-proof vest.  
20 The Respondent also denied having a gun. When officers asked him to sign a consent to search  
21 form he refused but eventually he admitted he did have a bullet proof vest, which was found in  
22 his office. Officers obtained a search warrant for the Respondent's office and found a Smith and  
23 Wesson .38 caliber gun; a 9mm Glock magazine; and, 14 unexpended 9mm hollow point rounds.

24 H. A review of surveillance video confirms that Respondent was wearing a bullet-proof  
25 vest. He is also seen going into his office, carrying an unknown object, possibly a gun.

26 I. The Los Angeles County District Attorney filed charges against defendant in the case  
27 of *The People of the State of California v. Dirk De Brito*, Los Angeles Superior Court Case No.  
28 GA097514. He was charged with assault, possession of a concealed firearm, and exhibiting a

1 firearm. On May 2, 2017, he pled nolo contendere to assault, and was sentenced to three years of  
2 summary probation with a variety of conditions, including attending a 52-week anger  
3 management course.

## 4 SECOND CAUSE FOR DISCIPLINE

### 5 (Mental Impairment)

6 10. Respondent Dirk De Brito, M.D. is subject to disciplinary action under sections 820  
7 and 822 in that he suffers from a mental condition that impairs his ability to practice medicine  
8 safely. The circumstances are as follows:

9 A. A Board-appointed psychiatrist performed a mental evaluation of Respondent.

10 Overall, according to the evaluator, based on the current neuropsychological evaluation results,  
11 Respondent is not competent to practice medicine because he suffers from bipolar disorder.

12 B. The evaluator administered the MMPI, and interviewed the Respondent. Respondent  
13 gave the evaluator his personal history and background which included incidents beginning in  
14 medical school. In 1993 while at Columbia Medical School, Respondent was told by the dean to  
15 get counseling, although Respondent told the evaluator he did not know the reason. Then while  
16 doing his internship at Huntington Hospital, the chairman told Respondent he was too sharp with  
17 the staff. He held several emergency positions at Kaiser and was told many times to “tone it  
18 down with the nurses.” He started a psychiatric residency at UCLA but after two years he was  
19 told to go elsewhere.

20 C. Respondent has a long history of psychiatric treatment. He has been evaluated and  
21 treated for attention deficit disorder and “reactivity.” He denies suffering from bipolar disorder,  
22 however, the evaluator disagrees and believes he does suffer from this disorder. In 2016,  
23 Respondent was treated with lithium, but the records do not indicate why. Lithium was stopped  
24 in March 2017.

25 D. The evaluator reviewed the police reports regarding the two assaults with  
26 Respondent’s ex-employee and nanny. He believes that this behavior is a result of a mental  
27 condition, specifically, bipolar disorder. The evaluator opined that Respondent’s mental illness  
28 impacts his ability to engage safely in the practice of medicine, that his condition is deteriorating,

1 that his ability to practice medicine endangers the public and that he requires ongoing psychiatric  
2 treatment. He believes Respondent is becoming increasingly violent and agitated.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Gross Negligence)**

5 11. Respondent Dirk De Brito, M.D. is subject to disciplinary action under section 2234,  
6 subdivision (b) in that he was grossly negligent and unprofessional with patient C. The  
7 circumstances are as follows:

8 A. In approximately November 2011, patient C. started seeing Respondent for a variety  
9 of conditions, including medication management for anxiety and depression. The patient did not  
10 present with any complaints of sexual dysfunction.

11 B. C. was Respondent's patient until May 2012. She had a variety of complaints,  
12 including that during their sessions, Respondent would make and receive phone calls.  
13 Respondent "demanded" that she engage in sexual activity, and when she objected to his  
14 suggestion explaining that it violated her moral and religious beliefs, he belittled her for her  
15 narrow mindedness. He also suggested that she go online to meet sexual partners, which only  
16 increased her anxiety. At one appointment Respondent suggested he could "service" her.

17 C. During one session, when C. told Respondent that her 30-year-old daughter was a  
18 virgin; he responded by yelling "that's a crisis," and got on the phone to call someone claiming  
19 they needed to do an intervention for one of his patients.

20 **Allegations of Gross Negligence:**

21 D. Suggesting that a patient engage in sexual activity, while knowing it was against her  
22 religious beliefs, and then belittling her is an extreme departure from the standard of care.

23 E. This patient presented with no complaints of sexual dysfunction, so when Respondent  
24 suggested she contact online websites for sexual partners, and offered to "service" her, it was an  
25 extreme departure from the standard of care.

26 F. Respondent's response to the patient's disclosure about her daughter, and his  
27 subsequent disclosure to a colleague violated the patient's confidential history. This conduct was  
28 demeaning, disrespectful, and unprofessional and an extreme departure from the standard of care.

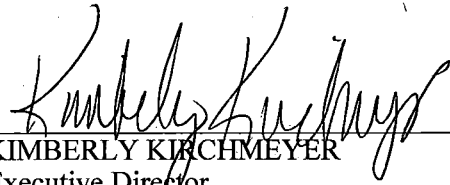
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**PRAYER**

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 A 66604, issued to Dirk De Brito, M.D.;
2. Revoking, suspending or denying approval of Dirk De Brito, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Dirk De Brito, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: December 28, 2017

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

LA2017605402