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

12 In the Matter of the Accusation Against:

Case No. 10-2007-185268

13 FELICIANO RIOS, M.D.
1079-C Third Avenue
14 Chula Vista, CA 92011

ACCUSATION

15 Physician's and Surgeon's Certificate
No. G33272,

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about November 3, 1976, the Medical Board of California (Board)
24 issued Physician's and Surgeon's Certificate Number G33272 to Felicianos Rios, M.D.
25 (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times
26 relevant to the charges brought herein and will expire on January 31, 2011, unless renewed.

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JURISDICTION

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

5 4. Section 2227 of the Code states:

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

11 “(1) Have his or her license revoked upon order of the division.

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

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

16 “(4) Be publicly reprimanded by the division.

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

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

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5. Section 2234 of the Code states:

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

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

“

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

“...”

6. Section 2236 of the Code states:

“(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 [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

“... ”

“(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.”

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¹ California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term “board” as used in the State Medical Practice Act (Bus. & Prof. Code, §§ 2000, *et seq.*) means the “Medical Board of California,” and references to the “Division of Medical Quality” and “Division of Licensing” in the Act or any other provision of law shall be deemed to refer to the Board.

1 7. Unprofessional conduct under Business and Professions Code section 2234
2 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is
3 unbecoming to a member in good standing of the medical profession, and which demonstrates an
4 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
5 575.)

FIRST CAUSE FOR DISCIPLINE

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

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8 8. Respondent is subject to disciplinary action under sections 2227 and 2234,
9 as defined by section 2236, of the Code, in that he has been convicted of crimes substantially
10 related to the qualifications, functions, or duties of a physician and surgeon, as more particularly
11 alleged hereinafter:

12 (a) On or about July 25, 2007, the Grand Jury for the County of San Diego, in
13 the case entitled *The People of the State of California v. Feliciano Rios, M.D.*, San Diego
14 Superior Court Case No. SCD193846, filed an Indictment against respondent charging
15 him with the following counts: (1) Grand Theft, in violation of Penal Code section 487,
16 subdivision (a), a felony; (2) Medi-Cal Fraud, in violation of Welfare and Institutions
17 Code section 1407, subdivision (b)(4)(A), a felony; (3) Perjury Under Oath, in violation of
18 Penal Code section 118, subdivision (a), a felony; (4) Perjury Under Oath, in violation of
19 Penal Code section 118, subdivision (a), a felony; and (5) Perjury Under Oath, in violation
20 of Penal Code section 118, subdivision (a), a felony.

21 (b) On or about March 6, 2008, the California Attorney General, in the case
22 entitled *People of the State of California v. Feliciano Renteria Rios, M.D.*, San Diego
23 Superior Court Case No. SCD211795, filed a Felony Complaint against respondent
24 alleging Insurance Fraud, in violation of Penal Code section 550, subdivision (b)(3), a
25 felony, on the basis that he “assisted, conspired with another to and did knowingly fail to
26 disclose the occurrence of facts related to his health that would have affected his initial
27 and continued right and entitlement to an insurance benefit . . .” On or about November
28 14, 2008, this Felony Complaint was deemed an Information. On or about January 9,

1 2009, this case was consolidated with Case No. SCD193845 referenced in subparagraph
2 (a), above.

3 (c) On or about July 2, 2009, in the case entitled *The People of the State of*
4 *California v. Feliciano Rios, M.D.*, San Diego Superior Court Case No. SCD193846 ,
5 respondent pled guilty to one count of committing perjury under oath, in violation of
6 Penal Code section 118, subdivision (a), and to committing insurance fraud, in violation
7 of Penal Code section 550, subdivision (b)(3).

8 (d) On or about September 25, 2009, in the case entitled *The People of the*
9 *State of California v. Feliciano Rios, M.D.*, San Diego Superior Court Case No.
10 SCD193846, respondent was sentenced to 3 years of formal probation, with terms and
11 conditions including, but not limited to, the following: (1) 365 days commitment to
12 sheriff, stayed pending successful completion of probation; (2) payment of fines totaling
13 \$1,360; (3) not possess a firearm, ammunition, or deadly weapon, and (4) obey all laws.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Dishonesty or Corruption)**

16 9. Respondent is further subject to disciplinary action under sections 2227
17 and 2234, as defined by section 2234, subdivision (e), of the Code, in that he has committed acts
18 of dishonesty or corruption, as more particularly alleged hereinafter:

19 (a) Paragraph 8, above, is hereby incorporated by reference as if fully set forth
20 herein.

21 (b) On or about July 19, 2007, respondent gave false information under oath to
22 the San Diego Grand Jury by testifying as true a material matter that he knew to be false,
23 to wit, that he obtained ParaGard intrauterine devices from three named doctors when, in
24 fact, he did not receive such devices from those doctors.

25 (c) On or about December 16, 2004, respondent committed insurance fraud in
26 that he assisted, conspired with another to, and did, conceal and knowingly fail to disclose
27 the occurrence of facts related to his health that would have affected his initial and
28 continued right to an insurance benefit.

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THIRD CAUSE FOR DISCIPLINE

(Violation of the Medical Practice Act)

10. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (a), of the Code, in that he has violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate provision of the Medical Practice Act, as more particularly alleged hereinafter: Paragraphs 8 and 9, above, are hereby incorporated by reference as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

11. Respondent is further subject to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged hereinafter:

(a) Paragraphs 8, 9, and 10, above, are hereby incorporated by reference as if fully set forth herein.

(b) On or about December 16, 2009, Special Agent Supervisor D.W. from the California Department Justice, Bureau of Firearms (BOF) initiated an investigation of respondent. A check of the Automated Firearms System on or about that date indicated respondent had three firearms registered in his name with no evidence of a legal transfer.

(c) On or about December 23, 2009, Agent D.W., three other special agents from BOF, and Escondido Police Detective J.V. conducted a probation search of respondent's residence. Respondent was present at the time of the search. Respondent admitted that he still possessed the three firearms at his business located at 1079-C Third Avenue, Chula Vista, California, 91911. Respondent further admitted that he was advised during his initial probation interview meeting by his probation officer that he could not have firearms. The special agents then went to respondent's medical office, where the three handguns were found locked in a filing cabinet. The two semi-automatic handguns

1 that were retrieved had ammunition in the magazines that were inserted into the firearms.
2 There were no rounds in the chamber of either weapon.

3 (d) Respondent owned and possessed firearms from on or about September 25,
4 2009, until on or about December 23, 2009, in violation of Penal Code section 12021 and
5 in violation of the terms of his criminal probation in San Diego Superior Court Case No.
6 SCD193846.


7 (e) On or about January 19, 2010, the California Attorney General filed a
8 Felony Complaint against respondent in case entitled *People of the State of California v.*
9 *Feliciano Renteria Rios, M.D.*, Superior Court Case No. CD224816. Respondent was
10 charged with three counts of possession of a firearm by a felon, in violation of Penal Code
11 section 12021, subdivision (a)(1), and two counts of possession of ammunition by a felon,
12 in violation of Penal Code section 12316, subdivision (b)(1).

13 **PRAYER**

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

- 16 1. Revoking or suspending Physician's and Surgeon's Certificate Number
17 G33272, issued to respondent Feliciano Rios, M.D.;
- 18 2. Revoking, suspending or denying approval of respondent Feliciano Rios,
19 M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
- 20 3. Ordering respondent Feliciano Rios, M.D. to pay the Medical Board of
21 California, if placed on probation, the costs of probation monitoring; and
- 22 4. Taking such other and further action as deemed necessary and proper.

23 DATED: May 10, 2010

24 
25 LINDA K. WHITNEY
26 Interim Executive Director
27 Medical Board of California
28 Department of Consumer Affairs
State of California
Complainant