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

In the Matter of the Accusation Against: **DANIEL RAMIRO CANCHOLA, M.D.** **6500 Sierra Drive, Suite 150** **Irving, TX 75039-3831** **Physician's and Surgeon's Certificate No. C54537** Respondent	Case No. 800-2019-062008 **DEFAULT DECISION AND ORDER** [Gov. Code §11520]

FINDINGS OF FACT

1. On July 28, 2020, an employee of the Medical Board of California (Board), served by Certified and First Class Mail, a copy of the Accusation No. 800-2019-062008, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 6500 Sierra Drive, Suite 150, Irving, TX 75039-3831. On August 1, 2020, the certified mail was

delivered to Respondent's address of record. (Exhibit Package, Exhibit 1: Accusation package, proof of service, certified mail return receipt card.[1])

2. There was no response to the Accusation. On August 18, 2020, an employee of the Attorney General's Office served a Courtesy Notice of Default on Respondent by sending the notice by certified mail, addressed to Respondent at his address of record. The Courtesy Notice of Default advised Respondent of the service of the Accusation, and provided him with an opportunity to file a Notice of Defense and request relief from default. According to the U.S. Postal Service track and confirm, delivery was attempted at Respondent's address of record but the Courtesy Notice of Default was returned to the Medical Board on September 2, 2020 because "the addressee was not known at the delivery address noted on the package." (Exhibit Package, Exhibit 2: Courtesy Notice of Default, proof of service, and U.S. Postal Service Track and Confirm results.)

3. Respondent has not responded to service of the Accusation or the Notice of Default. He has not filed a Notice of Defense. As a result, Respondent has waived his right to a hearing on the merits to contest the allegations contained in the Accusation.

FINDINGS OF FACT

I.

4. William Prasifka is the Executive Director of the Board. The charges and allegations in the Accusation were at all times brought and made solely in the official capacity of the Board's Executive Director.

II.

5. On February 2, 2011, the Board issued Physician's and Surgeon's Certificate No. C 54537 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2021, unless renewed. On April 20, 2020, the Board suspended Respondent's Physician's and Surgeon's

[1] The evidence in support of this Default Decision and Order is submitted herewith as the "Exhibit Package."

Certificate pursuant to Business and Profession Code Section 2310(a). (Exhibit Package, Exhibit 3: Certificate of Licensure.)

III.

6. Business and Professions Code section 118 states, in pertinent part:

> (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground.

IV.

7. On July 28, 2020, Respondent was duly served with an Accusation, alleging causes for discipline against Respondent. A Courtesy Notice of Default was thereafter served on Respondent. Respondent failed to file a Notice of Defense.

V.

8. The allegations of the Accusation are true as follows:

On October 18, 2019, the Texas Medical Board (Texas Board) and Respondent entered into a Consent Order (Order), attached herewith as Exhibit A to Exhibit Package, Exhibit 1, regarding Respondent's license to practice medicine in Texas. In the Order, the Texas Board found that Respondent: "failed to practice medicine in an acceptable professional manner consistent with public health and welfare" and had engaged in "unprofessional and dishonorable conduct that was likely to deceive or defraud the public or injure the public." The unprofessional conduct findings stem from charges that Respondent engaged in Medicare fraud by "ordering medically unnecessary genetic screenings for Medicare beneficiaries for whom he had conducted no evaluations." Accordingly, the Texas Board suspended Respondent's medical license, and it further ordered that Respondent's license would remain suspended until Respondent provided clear and convincing information that adequately indicated that he was physically and mentally, and otherwise competent to practice medicine.

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VI.

DETERMINATION OF ISSUES

9. Pursuant to the foregoing Findings of Fact, Respondent's conduct and the action of the Texas Medical Board constitute cause for discipline within the meaning of Business and Professions Code sections 2305 and 141(a).

10. Respondent's actions constitute unprofessional conduct and are substantially related to the qualifications, functions or duties of a physician and surgeon, and are cause for discipline pursuant to Business and Professions Code sections 2234 and/or 2236.

ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. C-54537, heretofore issued to Respondent Daniel Ramiro Canchola, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on OCT 16 2020.

It is so ORDERED SEP 18 2020

FOR THE MEDICAL BOARD OF
CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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

In the Matter of the Accusation Against:	Case No. 800-2019-062008
Daniel Ramiro Canchola, M.D. **6500 Sierra Drive, Suite 150** **Irving, TX 75039-3831** **Physician's and Surgeon's Certificate No. C 54537,** Respondent.	**A C C U S A T I O N**

PARTIES

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about February 2, 2011, the Medical Board issued Physician's and Surgeon's Certificate Number C 54537 to Daniel Ramiro Canchola, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2021, unless renewed. On April 20, 2020, the Board

suspended Respondent's Physician's and Surgeon's Certificate pursuant to Business and Profession Code Section 2310(a).

JURISDICTION

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

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

5. Section 2234 of the Code provides that the Board shall take action against any licensee who is charged with "unprofessional conduct," which includes but is not limited to, "[v]iolating . . . any provision of this chapter."

6. Section 2305 of the Code provides, in pertinent part, that the revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California, shall constitute grounds for disciplinary action for unprofessional conduct.

7. Section 141 of the Code provides:

(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

///

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

8. On October 18, 2019, the Texas Medical Board (Texas Board) and Respondent entered into a Consent Order (Order), attached herewith as Exhibit A, regarding Respondent's license to practice medicine in Texas. In the Order, the Texas Board found that Respondent: "failed to practice medicine in an acceptable professional manner consistent with public health and welfare" and had engaged in "unprofessional and dishonorable conduct that was likely to deceive or defraud the public or injure the public." The unprofessional conduct findings stem from charges that Respondent engaged in Medicare fraud by "ordering medically unnecessary genetic screenings for Medicare beneficiaries for whom he had conducted no evaluations." Accordingly, the Texas Board suspended Respondent's medical license, and it further ordered that Respondent's license would remain suspended until Respondent provided clear and convincing information that adequately indicated that he was physically and mentally, and otherwise competent to practice medicine. (Exhibit A).

9. Respondent's foregoing conduct and the actions of the Texas Board, as set forth in paragraph 8, above, and Exhibit A, attached, constitute cause for discipline, pursuant to section 2234 and/or section 2305 and/or section 141 of the Code.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 54537, issued to Daniel Ramiro Canchola;

2. Revoking, suspending or denying approval of Daniel Ramiro Canchola's authority to supervise physician assistants and advanced practice nurses;

3. Ordering Daniel Ramiro Canchola 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: JUL 28 2020

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

LICENSE NO. K-7137

IN THE MATTER OF THE LICENSE OF DANIEL RAMIRO CANCHOLA, M.D.	BEFORE THE TEXAS MEDICAL BOARD

AGREED ORDER OF SUSPENSION

On the 18th day of October, 2019, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Daniel Ramiro Canchola, M.D. (Respondent).

On August 21, 2019, Respondent appeared in person with counsel, Lindsey K. Wetterau, at an Informal Show Compliance Proceeding and Settlement Conference (ISC) in response to a letter of invitation from the Staff of the Board. The Board's representatives were Sherif Zaafran, M.D. and Michael Cokinos, members of the Board (Panel). Christopher M. Palazola represented Board Staff.

On or About September 27, 2019, Board staff learned Respondent has been charged related to allegations of participation in health care fraud. Respondent waives his right to appear at an ISC to discuss these charges, and instead agrees to the entry of this Order.

BOARD CHARGES

Respondent failed to exercise appropriate professional diligence and thereby facilitated the medically unnecessary ordering of Durable Medical Equipment (DME) and genetic testing for a company committing apparent health care fraud.

Respondent has been charged with the alleged referral of Medicare beneficiaries for medically unnecessary "cancer screening" genetic tests, receiving compensation for these tests, without performing any examination or speaking to patients to determine the medical necessity of the ordered tests.

BOARD HISTORY

Respondent has not previously been the subject of disciplinary action from the Board.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds the following:

1. General Findings:

   a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the Act) or the Rules of the Board.

   b. Respondent currently holds Texas Medical License No. K-7137. Respondent was originally issued this license to practice medicine in Texas on April 10, 1999. Respondent is also licensed to practice in the following states: Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, North Carolina, North Dakota, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Utah, Virginia, Wisconsin and West Virginia.

   c. Respondent is primarily engaged in the practice of Family Medicine. Respondent is board certified by the American Board of Family Medicine, a member of the American Board of Medical Specialties.

   d. Respondent is 48 years of age.

2. Specific Panel Findings:

   a. In or around May 2018 Respondent agreed to review medical records to determine the purported medical necessity of orders for DME and genetic testing for what he believed were patients seen and examined by nurse practitioners.

   b. Respondent was paid a flat fee per review. Records were emailed to him for his review via a secure link. Upon reviewing and deciding the DME or genetic testing Order request, the record would disappear from Respondent's computer. Respondent did not maintain a copy of the medical record he reviewed.

c. Respondent did not personally examine any patient as part of his reviews, but relied solely on the medical record to issue orders for patients. Respondent also did not conduct any evaluation via video or audio for any of the patients involved in this part of his practice of medicine. Respondent, therefore, did not practice telemedicine as defined and required by the Act or Board Rules.

d. The Board received a complaint from one patient that received a shipment of DME ordered for her by Respondent. However, the patient was not seen by the Respondent, any nurse practitioner for any condition requiring the DME, and the patient had no need or desire for the DME. The patient provided documentation to the Board that Medicare and Tricare were billed for and paid for the medically unnecessary DME.

e. In or around September 2019, Respondent was charged by the federal government with allegedly ordering medically unnecessary genetic screenings for Medicare beneficiaries for whom he had conducted no evaluation.

3. Mitigating Factors:

a. In determining the appropriate sanctions in this matter, the Panel considered as mitigating the following:

i. Respondent has not practiced telemedicine in Texas since being noticed of this complaint.

ii. Respondent has shown remorse and rehabilitative potential through the investigative process.

iii. Respondent represented to the ISC panel that he was unaware that patients were not being seen by an APN and that he had no intent to participate in any fraudulent conduct.

iv. Respondent has cooperated in the investigation of the allegations related to this Agreed Order.

v. Respondent neither admits nor denies the information given above. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.

2. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under Section 164.052 of the Act.

3. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rule 190.8(1)(C), failure to use proper diligence in one's professional practice.

4. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public, as further defined by Board Rule 190.8(2), violation of state or federal law regardless of indictment, arrest or conviction.

5. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.

6. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent's License No. K-7137 is hereby SUSPENDED.

1. Respondent shall not practice medicine in Texas, including that he may not examine, diagnose, treat or prescribe for any patient in Texas. Respondent may not conduct any utilization review or practice administrative medicine while his license is suspended. Respondent may not use his Texas license to practice medicine in any other jurisdiction, nor for the federal government.

2. Respondent's license is SUSPENDED until such time as Respondent requests in writing to have the suspension stayed or lifted and personally appears before the Board, and provides clear and convincing information which, in the discretion of the Board, adequately indicates that Respondent is physically, mentally and otherwise competent to practice medicine.

Such evidence shall include, but not be limited to, documentation that the criminal charges related to his alleged participation in Medicare fraud related to genetic testing are fully and finally resolved. This means that the charges have been dismissed with no intention to timely refile them, that he has been acquitted or otherwise deemed not guilty of the charges, or that he has been finally convicted. The Board may seek further disciplinary action, including revocation, should Respondent be convicted of the charges.

3. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery, that the Order was delivered to all such facilities.

4. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

5. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

6. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 days' notice of a Respondent Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 45-day notice requirement provided by § 164.003(b)(2) of the Medical Practice Act and agrees to 10 days' notice, as provided in 22 Texas Administrative Code § 187.44(4).

7. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

8. Respondent shall not be permitted to supervise or delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

9. This Order shall remain in place until superseded by further action of the Board. Respondent may not seek to modify or terminate this Order until the charges related to his alleged Medicare fraud are finally resolved.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

(SIGNATURE PAGES FOLLOW)

I, DANIEL RAMIRO CANCHOLA, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 10-17, 2019.

DANIEL RAMIRO CANCHOLA, M.D.
Respondent

STATE OF Texas §
§
COUNTY OF Denton §

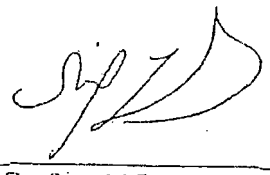
SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 17th day of October, 2019.

DORIS DIANA McGEE
NOTARY PUBLIC-STATE OF TEXAS
ID #[illegible]
COMM. EXP. [illegible]

(Notary Seal)

Doris Diana McGee
Signature of Notary Public

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 18th day of October, 2019.



Sherif Z. Zaafran, M.D., President
Texas Medical Board

STATE OF TEXAS
COUNTY OF TRAVIS

I, Christy Rodriguez certify that I am an official assistant custodian of records for the Texas Medical Board and that this is a true and correct Copy of the original, as it appears on the file in this office.

Witness my official hand and seal of the BOARD.

This 3rd, Day of December, 20 19

Christy Rodriguez
Assistant Custodian of Records