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

In the Matter of the Accusation Against: Alex Eugene Torres, M.D. Physician's and Surgeon's Certificate No. A 48298 Respondent.	MBC File # 800-2017-036331

ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "LICENSE NUMBER" PORTION OF DECISION

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the "License Number" portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the license number will conform to the Board's issued license.

IT IS HEREBY ORDERED that the license number contained on the Decision in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "Physician's and Surgeon's Certificate No. A 48298."

March 30, 2021

William Prasifka
Executive Director

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

In the Matter of the Accusation Against: Alex Eugene Torres, M.D. Physician's and Surgeon's Certificate No. A 54498 Respondent.	Case No. 800-2017-036331

DECISION

The attached Stipulated Surrender of License and Order 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 29, 2021.

IT IS SO ORDERED March 22, 2021.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
GIOVANNI F. MEJIA
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **ALEX EUGENE TORRES, M.D.** **P.O. Box 60067** **San Diego, CA 92166-8067,** **Physician's and Surgeon's Certificate No. A 48298,** Respondent.	Case No. 800-2017-036331 OAH No. 2020030691 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). This action was previously brought by Christine J. Lally solely in her prior official capacity as Interim Executive Director of the Board. Complainant is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Giovanni F. Mejia, Deputy Attorney General.

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2. Alex Eugene Torres, M.D. (Respondent) is represented in this proceeding by attorneys Scott D. Buchholz, Esq. and Christopher M. Freistedt, Esq., whose address is Dummit, Buchholz & Trapp, 101 W. Broadway, Suite 1400, San Diego, California.

3. On or about June 4, 1990, the Board issued Physician's and Surgeon's Certificate No. A 48298 to Alex Eugene Torres, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-036331, expired on November 30, 2019, and has not been renewed.

JURISDICTION

4. Accusation No. 800-2017-036331 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 31, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2017-036331 is attached hereto as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-036331. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

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CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to all of the charges and allegations in Accusation No. 800-2017-036331. Respondent further agrees that his Physician's and Surgeon's Certificate No. A 48298 is subject to disciplinary action and hereby surrenders his Physician's and Surgeon's Certificate No. A 48298 for the Board's formal acceptance.

9. Respondent agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. A 48298, or if an accusation or petition to revoke probation is ever filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2017-036331 shall be deemed true, correct, and fully admitted by Respondent for the purposes of any such proceeding, or any other licensing proceeding involving Respondent in the State of California or elsewhere.

10. Respondent understands that by signing this stipulation he enables the executive director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. A 48298 without further notice or opportunity to be heard.

CONTINGENCY

11. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Board "shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license."

12. This Stipulated Surrender of License and Order shall be subject to approval by the executive director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Order shall be submitted to the executive director for her consideration in the above-entitled matter and, further, that the executive director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the executive director, on behalf of the Medical Board, considers and acts upon it.

13. The parties agree that this Stipulated Surrender of License and Order shall be null and void and not binding upon the parties unless approved and adopted by the executive director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Order, the executive director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the executive director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the executive director on behalf of the Board does not, in her discretion, approve and adopt this Stipulated Surrender of License and Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Order be rejected for any reason by the executive director on behalf of the Board, Respondent will assert no claim that the executive director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

14. This Stipulated Surrender of License and Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

15. The parties agree that copies of this Stipulated Surrender of License and Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

16. In consideration of the foregoing admissions and stipulations, the parties agree that the executive director of the Board may, without further notice or opportunity to be heard by Respondent, issue and enter the following Order on behalf of the Board:

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 48298, issued to Respondent Alex Eugene Torres, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. With respect to the action that has been taken herein pursuant to California Business and Professions Code section 822, any future reinstatement of Respondent's Physician's and Surgeon's Certificate shall be governed by the procedures contained in Article 12.5 of Chapter 1 of Division 2 of the California Business and Professions Code. (Bus. & Prof. Code § 823.)

5. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2017-036331 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California or elsewhere, all of the charges and allegations contained in Accusation No. 800-2017-036331 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

I have carefully read and fully understand this Stipulated Surrender of License and Order. I have fully discussed it with my attorneys, Scott D. Buccholz, Esq. or Christopher Freistedt, Esq., or both, and I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 48298. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 03/18/2021

ALEX EUGENE TORRES, M.D.
Respondent

I have read and fully discussed with Respondent Alex Eugene Torres, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 3/18/2021

SCOTT D. BUCCHOLZ, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: March 18, 2021

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

GIOVANNI F. MEJIA
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2017-036331

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Jan 31 2020
BY [illegible] ANALYST

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

In the Matter of the Accusation Against: **Alex Eugene Torres, M.D.** P.O. Box 60067 San Diego, CA 92166-8067 **Physician's and Surgeon's Certificate No. A 48298,** Respondent.	Case No. 800-2017-036331 **ACCUSATION**

PARTIES

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about June 4, 1990, the Medical Board issued Physician's and Surgeon's Certificate Number A 48298 to Alex Eugene Torres, 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, expired on November 30, 2019, and has not been renewed.

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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 states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

5. Section 118, subdivision (b) of the Code states:

> 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 licensee on any such ground.

6. Section 2234 of the Code states, in pertinent part:

> The board 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.

...

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

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

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

....

7. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

8. Unprofessional conduct under Business and Professions Code section 2234 is conduct that breaches the rules or ethical code of a profession or conduct which is unbecoming a member in good standing of a profession, and which indicates an unfitness to practice medicine. (*Shea v. Bd. of Medical Examiners* (1978) 81 Cal.App.3d 564, 574-75.)

9. Section 822 of the Code states:

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

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

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

(c) Placing the licentiate on probation.

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

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

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FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

10. Respondent Alex Eugene Torres, M.D. has subjected his Physician's and Surgeon's Certificate No. A 48298 to discipline under section 2234, subdivision (c) of the Code in that he committed repeated negligent acts. The circumstances are as follows:

11. In or around 2017 to 2019, Respondent practiced medicine at Urgent Care & More (UCM), an urgent care clinic in or around San Diego, California.

Patient A

12. On or about August 28, 2017, "Patient A"[1] presented to Respondent at UCM complaining of ailments or symptoms including, but not limited to, coughing, wheezing, body aches and neck pain.

13. In the office visit notes for this encounter, Respondent failed to adequately document the presence or lack of a fever or shortness of breath.

14. In the office visit notes for this encounter, Respondent failed to adequately perform an examination of Patient A's neck, or assess or document details regarding Patient A's subjective complaint of neck pain.

15. In the office visit notes for this encounter, Respondent documented or caused to be documented text, including misplaced words or punctuation, identical to text that appears in the medical chart of at least one other UCM patient.

16. During the encounter with Patient A on or about August 28, 2017, Respondent failed to establish or document Patient A's peak flow or oxygen saturation.

17. During the encounter with Patient A on or about August 28, 2017, Respondent ordered an injection of magnesium sulfate for Patient A without adequate medical indication.

18. During the encounter with Patient A on or about August 28, 2017, Respondent prescribed Flovent, a steroid inhaler, to Patient A without adequate medical indication.

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[1] Pseudonyms are used for any patient referenced in the instant Accusation in the interests of preserving patient confidentiality. All patient identities are known to Respondent or will be provided by Complainant upon receipt of a duly issued request for discovery pursuant to Government Code section 11507.6.

19. During the encounter with Patient A on or about August 28, 2017, Respondent recommended, without adequate medical indication, that Patient A take vitamin D supplements for her documented diagnosis of bronchitis.

20. During the encounter with Patient A on or about August 28, 2017, Respondent administered a magnesium sulfate injection to himself in Patient A's presence.

21. Respondent committed negligence in his care and treatment of Patient A in that he failed to properly evaluate and manage Patient A's presenting complaints.

Patient B

22. On or about March 16, 2018, "Patient B" presented to Respondent at UCM complaining of ailments or symptoms including, but not limited to, fever, sore throat, cough, neck pain, and headache.

23. In the office visit notes for this encounter, Respondent documented a subjective complaint of neck pain but failed to adequately document a neck examination.

24. In the office visit notes for this encounter, Respondent documented or caused to be documented text, including misplaced words or punctuation, identical to text that appears in the medical chart of at least one other UCM patient.

25. During the encounter with Patient B on or about March 16, 2018, Respondent prescribed Qvar, an inhaled steroid medication commonly used to control asthma, and recommended vitamin D supplements to Patient B, both without adequate clinical indication.

26. Respondent committed negligence in his care and treatment of Patient B including, but not limited to, failing to properly evaluate and manage Patient B's upper respiratory symptoms, or produce and maintain accurate medical records.

Patient C

27. On or about May 19, 2018, "Patient C" presented to Respondent at UCM complaining of ailments or symptoms including, but not limited to, stomach pain and nausea.

28. In the office visit notes for this encounter, Respondent documented a diagnosis of personality disorder but failed to adequately establish or document a basis for such diagnosis.

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29. Respondent committed negligence in his care and treatment of Patient C including, but not limited to, improperly diagnosing her with personality disorder.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

30. Respondent Alex Eugene Torres, M.D. has further subjected his Physician's and Surgeon's Certificate No. A 48298 to discipline under section 2234, as defined by section 2266, of the Code in that he failed to maintain adequate and accurate records relating to the provision of services to one or more of his patients as more particularly alleged in paragraphs 10 to 29, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

31. Respondent Alex Eugene Torres, M.D. has further subjected his Physician's and Surgeon's Certificate No. A 48298 to discipline under section 2234 of the Code in that he engaged in conduct that breaches the rules or ethical code of the medical profession or conduct that was unbecoming to a member in good standing of the medical profession, and that demonstrated an unfitness to practice medicine, as more particularly alleged in paragraphs 12 to 21, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Violation of the Medical Practice Act)

32. Respondent Alex Eugene Torres, M.D. has further subjected his Physician's and Surgeon's Certificate No. A 48298 to disciplinary action under section 2234, subdivision (a) of the Code in that he violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspiring to violate any provision of the Medical Practice Act as more particularly alleged in paragraphs 10 to 31, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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CAUSE FOR BOARD ACTION

(Impairment)

33. Respondent Alex Eugene Torres, M.D.'s Physician's and Surgeon's Certificate No. A 48298 is further subject to Board action in that his ability to practice medicine safely is impaired because he is mentally ill, or physically ill, affecting competency. The circumstances are as follows:

34. Paragraphs 11 to 29, above, are hereby incorporated by reference and realleged as if fully set forth herein.

35. In or around December 2018, A.A., M.D. (Dr. A.) completed a mental examination of Respondent based upon information including, but not limited to, statements and documents obtained by Board investigators, a forensic psychiatric interview of Respondent, psychological testing, and a mental status examination of Respondent. Dr. A concluded that Respondent's ability to practice medicine safely is impaired due to mental illness.

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 48298, issued to Respondent Alex Eugene Torres, M.D.;

2. Revoking, suspending or denying approval of Respondent Alex Eugene Torres, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Alex Eugene Torres, 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: JAN 3 1 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant