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

In the Matter of the Accusation Against: Carlos X. Montano, M.D. Physician's and Surgeon's Certificate No. A 41718 Respondent.	Case No. 800-2017-034615

DECISION

The attached Stipulated Revocation 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 June 21, 2021.

IT IS SO ORDERED June 21, 2021.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D. , Chair
Panel B

XAVIER BECERRA
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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: **CARLOS X. MONTANO, M.D.** **1545 Nutmeg Place** **Costa Mesa, CA 92626** **Physician's and Surgeon's Certificate No. A 41718** Respondent.	Case No. 800-2017-034615 OAH No. 2020120563 **STIPULATED REVOCATION 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. Carlos X. Montano, M.D. (Respondent) is represented in this proceeding by attorneys Dennis K. Ames, Esq. and Pogey Henderson, Esq., whose address is: La Follette, Johnson, DeHaas, Fesler & Ames, 2677 North Main Street, Suite 901, Santa Ana, CA 92705-6632.

3. On or about December 13, 1985, the Board issued Physician's and Surgeon's Certificate No. A 41718 to 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. 800-2017-034615 and will expire on December 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-034615 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 June 9, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2017-034615 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-034615. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Revocation 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 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 admits the truth of each and every charge and allegation in Accusation No. 800-2017-034615, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A 41718 to disciplinary action.

9. Respondent understands that by signing this stipulation, he enables the Board to issue an order revoking his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

10. The parties agree that this Stipulated Revocation of License and Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Revocation of License and Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or rescind this stipulation prior to the time the Board considers and acts upon it.

11. The parties agree that this Stipulated Revocation of License and Order shall be null and void and not binding upon the parties unless approved and adopted by 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 Revocation of License and Order, 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 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 Board, in its discretion, does not approve and adopt this Stipulated Revocation 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 the Board reject the Stipulated Revocation of License and Order for any reason, respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Revocation of License and Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

12. This Stipulated Revocation 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.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Revocation of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 41718, issued to Respondent Carlos X. Montano, M.D., is revoked, effective June 4, 2021 or as soon thereafter as the Board shall order.

1. The revocation of Respondent's Physician's and Surgeon's Certificate 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. Pursuant to Business and Professions Code section 2273, subdivision (b), Respondent shall have his Physician's and Surgeon's Certificate revoked for a period of not less than ten (10) years from the effective date of this Decision and Order. After the expiration of this ten-year period, Respondent may petition for reinstatement pursuant to the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed.

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. 800-2017-034615 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, all of the charges and allegations contained in Accusation, No. 800-2017-034615 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 the above Stipulated Revocation of License and Order and have fully discussed it with my attorney Dennis K. Ames, Esq., Pogey Henderson, Esq., or both. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Revocation 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: 5/5/2021

CARLOS X. MONTANO, M.D.
Respondent

I have read and fully discussed with Respondent Carlos X. Montano, M.D. the terms and conditions and other matters contained in this Stipulated Revocation of License and Order. I approve its form and content.

DATED: 5/5/2021

DENNIS K. AMES, ESQ.
POGEY HENDERSON, ESQ.
Attorneys for Respondent

ENDORSEMENT

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

DATED: 5/5/2021

Respectfully submitted,

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

GIOVANNI F. MEJIA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-034615

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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: **Carlos X. Montano, M.D.** **1545 Nutmeg Place** **Costa Mesa, CA 92626-2560** **Physician's and Surgeon's Certificate No. A 41718,** Respondent.	Case No. 800-2017-034615 **A C C U S A T I O N**

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 December 13, 1985, the Medical Board issued Physician's and Surgeon's Certificate No. A 41718 to Carlos X. Montano, 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 December 31, 2020, unless 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, in pertinent part:

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

6. Section 2236 of the Code states, in pertinent part:

(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.

...

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

(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.

7. Section 2273, subdivision (b) of the Code states:

A licensee shall have his or her license revoked for a period of 10 years upon a second conviction for violating any of the following provisions or upon being convicted of more than one count of violating any of the following provisions in a single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an application for license reinstatement may be made pursuant to Section 2307.

8. Section 550 of the Penal Code states, in pertinent part:

(a) It is unlawful to do any of the following, or to aid, abet, solicit, or conspire with any person to do any of the following:

...

(5) Knowingly prepare, make, or subscribe any writing, with the intent to present or use it, or to allow it to be presented, in support of any false or fraudulent claim.

....

9. Section 1360 of title 16, division 13 of the California Code of Regulations (Medical Practice Regulations) states:

For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person

holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.

FIRST CAUSE FOR DISCIPLINE

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

10. Respondent has subjected his Physician's and Surgeon's Certificate No. A 41718 to disciplinary action under sections 2227 and 2234 of the Code, as defined by sections 2236 of the Code and section 1360 of the Medical Practice Regulations, in that he was convicted of crimes substantially related to the qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

11. In or around November 2, 2012[1] to December 15, 2016, Respondent wrote urine drug prescriptions for certain sober living residents and employees of Compass Rose Recovery and Compass Rose Staffing that were not medically necessary knowing that they would be presented to health insurance carriers, such as Anthem Blue Cross and United Health Care, in support of a healthcare claim.

12. On or about May 18, 2017, in the case entitled *The People of the State of California v. Carlos X. Montano, M.D.*, Superior Court of California, County of Orange, Case No. 17CF1241, a felony criminal complaint was filed in the Superior Court of California, County of Orange, charging Respondent with one felony count of violating Penal Code section 550, subdivision (a), paragraph (6) (Conspiracy to Commit Medical Insurance Fraud), and three felony counts of violating Penal Code section 550, subdivision (a), paragraph (5) (Insurance Fraud – Written Claim).

13. On or about July 26, 2018, in the case entitled *The People of the State of California v. Carlos X. Montano, M.D.*, Superior Court of California, County of Orange, Case No. 17CF1241,

[1] Any acts or omissions alleged to have occurred more than seven years prior to the date of filing of this Accusation are pleaded for information purposes only and not as a basis for disciplinary action.

Respondent was convicted, upon his plea of guilty, of two felony violations of Penal Code section 550, subdivision (a), paragraph (5) (Insurance Fraud – Written Claim).

14. As a result of this conviction, Respondent was sentenced to 365 days in Orange County jail and formal probation for five years. The terms and conditions of probation included, but were not limited to, payment of restitution in the amount of approximately $57,550.

SECOND CAUSE FOR DISCIPLINE

(Conviction of More than One Count of Violating Section 550 of the Penal Code)

15. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 41718 to disciplinary action under sections 2227 and 2273 of the Code in that he was convicted of more than one count of violating section 550 of the Penal Code as more particularly alleged in paragraphs 12 through 14, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Dishonest or Corrupt Acts)

16. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 41718 to disciplinary action under sections 2227 and 2234 of the Code, as defined by section 2234, subdivision (e) of the Code and section 1360 of the Medical Practice Regulations, in that he committed one or more acts involving dishonesty or corruption that were substantially related to the qualification, functions, or duties of a physician and surgeon as more particularly alleged in paragraphs 10 through 15, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Violations of the Medical Practice Act)

17. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 41718 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision(a), of the Code in that he committed violations of one or more provisions of the Medical Practice Act, as more particularly alleged in paragraphs 10 through 16, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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 No. A 41718, issued to Respondent Carlos X. Montano, M.D.;

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

3. Ordering Respondent Carlos X. Montano, 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: JUN 09 2020

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