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

In the Matter of the Accusation Against: Carlos Busuego Ferrer, M.D. Physician's and Surgeon's Certificate No. A 37236 Respondent.	Case No. 800-2018-041522

DECISION

The attached Proposed Decision 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 November 4, 2021.

IT IS SO ORDERED October 5, 2021.

MEDICAL BOARD OF CALIFORNIA

Laurie Rose Lubiano, J.D., Chair
Panel A

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

In the Matter of the Accusation Against:

CARLOS BUSUEGO FERRER

Physician's and Surgeon's Certificate No. A 37236,

Respondent.

Agency Case No. 800-2018-041522

OAH No. 2021030673

PROPOSED DECISION

Julie Cabos-Owen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on August 18, 2021. William Prasifka (Complainant) was represented by Brian D. Bill, Deputy Attorney General. Carlos Busuego Ferrer (Respondent) was represented by Robert K. Weinberg, Attorney at Law.

At the hearing, the ALJ redacted patients' full names from the following exhibits: Exhibit 13, pp. 138 and 141; Exhibit 14; Exhibit 15; and Exhibit 17, p. 157.

At the hearing, the ALJ was provided with Exhibits 5, 11, and 18, pages 173, 177 and 178, which all contained confidential information protected from disclosure to the public. Redaction of the documents to obscure this information was not practicable and would not provide adequate privacy protection. To prevent the disclosure of confidential information, concurrent with the issuance of this Proposed Decision the ALJ issued a Protective Order providing that the Exhibits 5, 11, and 18, pages 173, 177 and 178, shall be placed under seal following their use in preparation of the Proposed Decision. These exhibits shall remain under seal and shall not be opened, except by order of the Medical Board of California (Board), by OAH, or by a reviewing court. A reviewing court, parties to this matter, their attorneys, or a government agency decision maker or designee under Government Code section 11517 may review the documents subject to this order provided that such documents are protected from release to the public.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on August 18, 2021.

FACTUAL FINDINGS

Jurisdictional Matters

1. On August 12, 1981, the Board issued Physician's and Surgeon's Certificate Number A 37236 to Respondent. That license is scheduled to expire on December 31, 2022.

2. On January 12, 2021, Reji Varghese, Deputy Director of the Board, filed the Accusation on behalf of Complainant as the Executive Director of the Board, while

both were acting in their official capacities. Respondent filed a Notice of Defense, and this hearing ensued.

Stipulation at Hearing

3A. At hearing, the parties filed a Trial Stipulation Re: Admissions and Evidence (Exhibit 20), wherein Respondent agreed to the following:

> 9. Respondent does not contest the charges and allegations contained in Accusation No. 800-2018-041522 and understands that the charges and allegations will be deemed true. . . .
>
> 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline. [¶]
>
> 12. Respondent further agrees that at hearing he shall only present mitigation evidence as to the level of discipline to be imposed.

(Exhibit 20, pp. 1-2.)

3B. The factual allegations in the Accusation to which Respondent stipulated are set forth verbatim below:[1]

"12. Alprazolam, also known as Xanax, is a benzodiazepine used to treat anxiety and panic disorders. Benzodiazepines act on the brain and nerves to produce a calming effect.

---

[1] Block quotation format will not be used to promote readability.

13. Amlodipine is used to treat high blood pressure and angina. It belongs to a class of drugs known as calcium channel blockers. It works by relaxing blood vessels so blood can flow more easily.

14. Clonidine is a medicine usually prescribed to reduce blood pressure; it can also induce sleep.

15. Glimepiride is used to control high blood sugar in people with Type II diabetes.

16. Librium, also known as chlordiazepoxide, is used to treat anxiety and acute alcohol withdrawal. It is also used to relieve fear and anxiety before surgery. This medication belongs to a class of drugs called benzodiazepines, which act on the brain and nerves to produce a calming effect.

17. Lisinopril is used to treat high blood pressure. It belongs to a class of drugs known as ACE inhibitors. It works by relaxing blood vessels so blood can flow more easily.

18. Metoprolol is a medicine used to treat hypertension and angina. It belongs to a class of drugs known as Beta-blockers.

19. Valsartan is used to treat high blood pressure and heart failure. It belongs to a class of drugs called angiotensin receptor blockers. It works by relaxing blood vessels so that blood can flow more easily.

20. The Respondent is a physician who practices pediatrics and family medicine. He is not board-certified in any medical specialty. At the time of the events described below, he was self-employed and practicing at 3412 North Eastern Avenue,

in Los Angeles, in a facility variously known as the Clinica Familiar Santo Nino, as Sereno Health, LLC, or as Carlos B. Ferrer, II, M.D., a Professional Corporation.

Self-Prescribing Using the DEA Number and Prescription Blanks of his Physician Assistant, L.T.[2]

21. On the dates specified below, Respondent inappropriately prescribed medications to himself on written prescription pads issued to his physician assistant, L.T., as set forth below. All of these prescriptions were filled at Walmart #41200 in Murrieta Hot Springs, California.

Date Filed	Drug Name	Strength	Qty.	Days	Refills
January 16, 2017	Glimepiride	4mg	180	90	0
January 16, 2017	Valsartan	320mg	180	90	0
January 16, 2017	Amlodipine	5mg	180	90	0
January 16, 2017	Metoprolol Tartrate	50mg	180	90	0
April 6, 2017	Metoprolol Tartrate	50mg	180	90	1
June 20, 2017 Telephone Rx	Alprazolam	0.5mg	120	60	3

[2] Full names eliminated to protect privacy.

July 20, 2017	Metoprolol Tartrate	50mg	180	90	2
Oct. 23, 2017	Alprazolam	0.5mg	120	60	1
Oct. 23, 2017	Alprazolam	0.5mg	120	90	1
Nov. 17, 2017	Amlodipine	5mg	180	90	1
Sept. 21, 2017	Metoprolol Tartrate	0.5mg	180	90	3

False Prescriptions to Patient 1

22. On June 29, 2019, after examining a 38-year-old male, Patient 1, born in 1984, Respondent issued a false prescription bearing number 8350 for three medications misleadingly written to indicate that they were issued to Patient 1's 62-year-old father, Patient 2, born in 1957. The actual patient for whom these medications were intended was Patient 1, not his father. The motive for doing this was so that the son could utilize his father's insurance to pay for his medications.

23. The Respondent inappropriately prescribed medications, including a controlled substance, to Patient 2 on June 29, 2019, without seeing him in clinic and without documenting a visit and medical need for the medication prescribed. When investigated, the medical record for Patient 2 for June 29, 2019, refers clearly to a patient whose date of birth is November 27, 1984 (i.e., Patient 1) and who was diagnosed with alcohol intoxication and anxiety, and not sleeping well for which the patient was prescribed Clonidine, Librium and Lisinopril."

3C. Respondent stipulated to the following 10 causes for discipline in the Accusation:

(1) Self-prescribing controlled substances using L.T.'s name, in violation of Business and Professions Code section 2239, as set forth in paragraph 21 of the Accusation;

(2) Unlawful impersonation of another licensed practitioner involving prescriptions issued under L.T.'s name, in violation of Business and Professions Code section 2289, as set forth in paragraphs 21 and 22 of the Accusation;

(3) Gross negligence involving prescriptions issued under L.T.'s name, in violation of Business and Professions Code section 2234, subdivision (b), as set forth in paragraph 21 of the Accusation;

(4) Commission of acts involving dishonesty or corruption related to the qualifications, functions, or duties of a physician, involving prescriptions issued under L.T.'s name, in violation of Business and Professions Code section 2234, subdivision (e), as set forth in paragraphs 21 and 22 of the Accusation;

(5) Failure to maintain adequate and accurate patient records involving prescriptions issued under L.T.'s name, in violation of Business and Professions Code section 2266, as set forth in paragraph 21 of the Accusation;

(6) Gross negligence in prescribing medications to Patient 2 intended for Patient 1, in violation of Business and Professions Code section 2234, subdivision (b), as set forth in paragraphs 22 and 23 of the Accusation;

(7) Prescribing medications to Patient 2 without prior examination and medical need, in violation of Business and Professions Code section 2242, subdivision (a), as set forth in paragraphs 22 and 23 of the Accusation;

(8) Knowingly making and signing false documents related to the practice of medicine in prescribing medications to Patient 2 intended for Patient 1, in violation of Business and Professions Code section 2261, as set forth in paragraphs 22 and 23 of the Accusation;

(9) Dishonesty in prescribing medications to Patient 2 intended for Patient 1, in violation of Business and Professions Code section 2234, subdivision (e), as set forth in paragraphs 22 and 23 of the Accusation; and

(10) Failure to maintain adequate and accurate patient records involving prescribing medications to Patient 2 intended for Patient 1, in violation of Business and Professions Code section 2266, as set forth in paragraphs 22 and 23 of the Accusation.

3D. The disciplinary considerations in the Accusation to which Respondent stipulated are set forth verbatim below:

> For purposes of determining the degree of discipline to be imposed, if any, it is alleged that effective February 5, 2007, the Respondent was disciplined in Medical Board case number 11-2005-168431, after having been convicted in 2005 of one count of grand theft arising from fraud of the Medicare Program. The Accusation discloses that he had billed for examining and treating patients but that unlicensed persons actually examined most patients at a

> clinic. After entering into a stipulation in which the facts charged were fully admitted, the Respondent was placed on probation with terms, including four months of actual suspension and probation for seven years, later shortened to two years.

(Exhibit 1, Accusation, para. 34.)

Respondent's Evidence of Mitigation and Rehabilitation

4. Respondent is a sole practitioner. He works six days per week, Monday through Saturday, from 11:00 a.m. to 5:30 p.m. Respondent drives 75 miles each way between his home in Murrieta and his clinic in the El Sereno area of Los Angeles.

5. As a result of his Medicare fraud conviction (see Factual Finding 3D), Respondent was sanctioned by MediCal and MediCare. Thereafter, he has practiced medicine without participating in MediCal or MediCare. Respondent testified his subsequent applications for a new MediCal number have been denied because he "cannot 100 percent assure [MediCal] he would not be doing crazy things with patients [regarding] MediCal and MediCare."

6. Respondent does not bill any private insurers, and most of his patients pay out-of-pocket for his care and treatment.

7. Respondent does not hold any hospital privileges.

8. Respondent is 79 years old, and he will turn 80 years old in December 2021. He is married, and he cares for his physically disabled wife. They are financially dependent on the income from Respondent's medical practice.

9A. In 2015, Respondent developed a brain hemorrhage, and he testified "half his body" was paralyzed "for some time," and he experienced a loss of memory for about two to three weeks. Respondent recovered slowly, and for several years, his short-term memory was diminished, and his "rational thinking was only 80 percent." However, during the time his cognitive abilities were diminished, Respondent continued working full-time. For one to two years, his children transported Respondent to and from work, and he reportedly "limited [his medical practice] to small things [which were] not complicated like abscesses and sore eyes [which did not require] complicated medicine" or "complicated treatment," so he would "not commit mistakes because [his] ability to reason was not 100 percent." Respondent regained his ability to drive about three to four years ago.

9B. Respondent did not inform the Board about his 2015 brain hemorrhage or his ensuing disabilities until his testimony at hearing.

9C. Respondent believes his judgment, memory, and capacity to perceive have resolved such that he is currently capable of practicing medicine safely.

10. Respondent would like to continue practicing medicine because working in the medical field "is the only job [he has] been doing for the last 51 years."

11. Respondent has the support of friends, colleagues, and patients who submitted letters on his behalf.

LEGAL CONCLUSIONS

1. The standard of proof which must be met to establish the charging allegations is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality*

Assurance (1982) 135 Cal.App.3d 853, 856.) This means the burden rests on Complainant to establish the charging allegations by proof that is clear, explicit and unequivocal--so clear as to leave no substantial doubt and sufficiently strong to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

2. The Board has the authority to revoke or suspend a physician's license for engaging in unprofessional conduct. (Bus. & Prof. Code, §§ 2004, 2234.) Unprofessional conduct includes: gross negligence (Bus. & Prof. Code, § 2234, subd. (b)); acts of dishonesty related to the qualifications, functions, or duties of a physician (Bus. & Prof. Code, § 2234, subd. (e)); self-prescribing controlled substances (Bus. & Prof. Code, § 2239, subd. (a)); prescribing dangerous drugs without prior examination and medical need (Bus. & Prof. Code, § 2242, subd. (a)); knowingly making or signing false documents related to the practice of medicine (Bus. & Prof. Code, § 2261); failure to maintain adequate and accurate patient records (Bus. & Prof. Code, § 2266); and impersonation of another licensed practitioner (Bus. & Prof. Code, § 2289).

3. Cause exists to discipline Respondent's physician's and surgeon's license, pursuant to Business and Professions Code section 2239, in that Respondent self-prescribed controlled substances using L.T.'s name, as set forth in Factual Finding 3.

4. Cause exists to discipline Respondent's physician's and surgeon's license, pursuant to Business and Professions Code section 2289, in that Respondent impersonated another licensed practitioner by issuing prescriptions under L.T.'s name, as set forth in Factual Finding 3.

5. Cause exists to discipline Respondent's physician's and surgeon's license, pursuant to Business and Professions Code section 2234, subdivision (b), in that

Respondent committed gross negligence in issuing prescriptions under L.T.'s name, as set forth in Factual Finding 3.

6. Cause exists to discipline Respondent's physician's and surgeon's license, pursuant to Business and Professions Code section 2234, subdivision (e), in that Respondent engaged in acts of dishonesty related to the qualifications, functions, or duties of a physician, by issuing prescriptions under L.T.'s name, as set forth in Factual Finding 3.

7. Cause exists to discipline Respondent's physician's and surgeon's license, pursuant to Business and Professions Code section 2266, in that Respondent failed to maintain adequate and accurate patient records by issuing prescriptions under L.T.'s name, as set forth in Factual Finding 3.

8. Cause exists to discipline Respondent's physician's and surgeon's license, pursuant to Business and Professions Code section 2234, subdivision (b), in that Respondent committed gross negligence in prescribing medications to Patient 2 intended for Patient 1, as set forth in Factual Finding 3.

9. Cause exists to discipline Respondent's physician's and surgeon's license, pursuant to Business and Professions Code section 2242, subdivision (a), in that Respondent prescribed medications to Patient 2 without prior examination and medical need, as set forth in Factual Finding 3.

10. Cause exists to discipline Respondent's physician's and surgeon's license, pursuant to Business and Professions Code section 2261, in that Respondent knowingly made and signed false documents related to the practice of medicine in prescribing medications to Patient 2 intended for Patient 1, as set forth in Factual Finding 3.

11. Cause exists to discipline Respondent's physician's and surgeon's license, pursuant to Business and Professions Code section 2234, subdivision (e), in that Respondent engaged in dishonesty in prescribing medications to Patient 2 intended for Patient 1, as set forth in Factual Finding 3.

12. Cause exists to discipline Respondent's physician's and surgeon's license, pursuant to Business and Professions Code section 2266, in that Respondent failed to maintain adequate and accurate patient records in prescribing medications to Patient 2 intended for Patient 1, as set forth in Factual Finding 3.

13A. Complainant established Respondent engaged in numerous violations including gross negligence, self-prescribing, prescribing without medical examination, failure to maintain adequate and accurate records, dishonesty, impersonating another licensed practitioner, and creating and signing false medical documents. The remaining question is the nature of the discipline to be imposed against Respondent's license for his violations.

13B. Business and Professions Code section 2229 provides, in pertinent part:

> (a) Protection of the public shall be the highest priority for the Division of Medical Quality . . . and administrative law judges of the Medical Quality Hearing Panel in exercising their disciplinary authority.
>
> (b) In exercising his or her disciplinary authority an administrative law judge of the Medical Quality Hearing Panel . . . shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other

reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence.

13C. Respondent's violations stem from his duplicity, both by impersonating another licensed individual to self-prescribe medications, and by creating false medical records to prescribe medications to one patient, without physical examination or medical need, knowing the medications were intended for another patient. This is not the first time Respondent has been disciplined for engaging in dishonesty, as he was previously disciplined for his grand theft conviction arising from his Medicare fraud. It is troubling that, despite completing his prior Board probation to ensure rehabilitation following his MediCare fraud, Respondent committed further acts of dishonesty. Given the ineffectiveness of the prior Board probation on Respondent's rehabilitation, another period of probation appears futile. In weighing the goals of public protection and rehabilitation of the licensee, revocation of Respondent's license remains the only discipline which would adequately protect the public.

ORDER

Physician's and Surgeon's Certificate Number A 37236, issued to Respondent, Carlos Busuego Ferrer, M.D., is revoked.

DATE: Sep 10, 2021

Julie Cabos-Owen

JULIE CABOS-OWEN
Administrative Law Judge
Office of Administrative Hearings

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
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State Bar No. 141179
300 South Spring Street, Suite 1702
Los Angeles, California 90013
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Facsimile: (916) 731-2117
Attorneys for Complainant

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

In the Matter of the Accusation Against: CARLOS BUSUEGO FERRER, M.D. 25355 Hayes Avenue Murrieta, California 92562-9465 Physician's and Surgeon's Certificate No. A 37236, Respondent.	Case No. 800-2018-041522 **ACCUSATION**

PARTIES

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

2. On August 12, 1981, the Board issued Physician's and Surgeon's Certificate Number A 37236 to Carlos Busuego Ferrer, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2022, unless renewed.

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 2004 of the Code provides that the Board has the responsibility for the enforcement of the Medical Practice Act's disciplinary provisions, reviewing the quality of medical practice carried out by physicians and suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

5. 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.

6. Section 2234 of the Code states:

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.

(b) Gross negligence.

(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.

(d) Incompetence.

(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.

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

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the Board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the Board.

7. Section 2266 of the Code states that 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. Section 2239, subdivision (a), of the Code provides that the use or prescribing for or administering to himself or herself, of any controlled substance constitutes unprofessional conduct.

9. Section 2242, subdivision (a), of the Code defines unprofessional conduct as prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication.

10. Section 2261 of the Code provides that knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine, which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

11. Section 2289 of the Code provides that the impersonation of another licensed practitioner constitutes unprofessional conduct.

DRUGS INVOLVED

12. Alprazolam, also known as Xanax, is a benzodiazepine used to treat anxiety and panic disorders. Benzodiazepines act on the brain and nerves to produce a calming effect.

13. Amlodipine is used to treat high blood pressure and angina. It belongs to a class of

drugs known as calcium channel blockers. It works by relaxing blood vessels so blood can flow more easily.

14. Clonidine is a medicine usually prescribed to reduce blood pressure; it can also induce sleep.

15. Glimepiride is used to control high blood sugar in people with Type II diabetes.

16. Librium, also known as chlordiasepoxide, is used to treat anxiety and acute alcohol withdrawal. It is also used to relieve fear and anxiety before surgery. This medication belongs to a class of drugs called benzodiazepines, which act on the brain and nerves to produce a calming effect.

17. Lisinopril is used to treat high blood pressure. It belongs to a class of drugs known as ACE inhibitors. It works by relaxing blood vessels so blood can flow more easily.

18. Metoprolol is a medicine used to treat hypertension and angina. It belongs to a class of drugs known as Beta-blockers.

19. Valsartan is used to treat high blood pressure and heart failure. It belongs to a class of drugs called angiotensin receptor blockers. It works by relaxing blood vessels so that blood can flow more easily.

FACTUAL ALLEGATIONS

20. The Respondent is a physician who practices pediatrics and family medicine. He is not board-certified in any medical specialty. At the time of the events described below, he was self-employed and practicing at 3412 North Eastern Avenue, in Los Angeles, in a facility variously known as the Clinica Familiar Santo Nino, as Sereno Health, LLC, or as Carlos B. Ferrer, II, M.D., a Professional Corporation.

Self-Prescribing Using the DEA Number and Prescription Blanks of his Physician Assistant, L.T. [1]

21. On the dates specified below, Respondent inappropriately prescribed medications to himself on written prescription pads issued to his physician assistant, L.T., as set forth below. All of these prescriptions were filled at Walmart #41200 in Murrieta Hot Springs, California.

[1] Names are reduced to initials for privacy

///

Date Filed	Drug Name	Strength	Qty.	Days	Refills
January 16, 2017	Glimepiride	4mg	180	90	0
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November 17, 2017	Amlodipine	5mg	180	90	1
September 21, 2017	Metoprolol Tartrate	0.5mg	180	90	3

False Prescriptions to "Patient 1"

22. On June 29, 2019, after examining a 38-year-old male, Patient 1, born in 1984, Respondent issued a false prescription bearing number 8350 for three medications misleadingly written to indicate that they were issued to Patient 1's 62-year-old father, Patient 2, born in 1957. The actual patient for whom these medications were intended was Patient 1, not his father. The motive for doing this was so that the son could utilize his father's insurance to pay for his medications.

23. The Respondent inappropriately prescribed medications, including a controlled substance, to Patient 2 on June 29, 2019, without seeing him in clinic and without documenting a visit and medical need for the medication prescribed. When investigated, the medical record for Patient 2 for June 29, 2019, refers clearly to a patient whose date of birth is November 27, 1984 (i.e., Patient 1) and who was diagnosed with alcohol intoxication and anxiety, and not sleeping well for which the patient was prescribed Clonidine, Librium and Lisinopril.

FIRST CAUSE FOR DISCIPLINARY ACTION

(Self-Prescribing)

24. By reason of the facts set forth above in paragraph 21, involving prescriptions issued under the name of L.T., the Respondent has subjected his license to disciplinary action under section 2239, subdivision (a), of the Code for prescribing for himself controlled substances.

SECOND CAUSE FOR DISCIPLINARY ACTION

(Unlawful Impersonation of another Licensed Practitioner)

25. By reason of the facts set forth above paragraphs 21 and 22, involving prescriptions issued under the name of L.T., the Respondent has subjected his license to disciplinary action for unprofessional conduct under section 2289 of the Code for the impersonation of another licensed practitioner.

THIRD CAUSE FOR DISCIPLINARY ACTION

(Gross Negligence)

26. By reason of the facts set forth above paragraph 21, involving prescriptions issued under the name of L.T., the Respondent has subjected his license to disciplinary action under section 2234, subdivision (b), of the Code for gross negligence.

FOURTH CAUSE FOR DISCIPLINARY ACTION

(Commission of Acts Involving Dishonesty or Corruption)

27. By reason of the facts set forth above paragraphs 21 and 22, involving prescriptions issued under the name of L.T., the Respondent has subjected his license to disciplinary action for or unprofessional conduct under section 2234, subdivision (e), for the commission of acts involving dishonesty or corruption, related to the qualifications, functions or duties of a physician.

FIFTH CAUSE FOR DISCIPLINARY ACTION

(Failure to Maintain Adequate and Accurate Patient Records)

28. By reasons of the facts set forth in paragraph 21, involving prescriptions issued under the name of L.T., the Respondent has subjected his license to disciplinary action for 2266 for his

failure to maintain adequate and accurate records relating to the provision lf services to his patients.

SIXTH CAUSE FOR DISCIPLINARY ACTION

(Gross Negligence)

29. By reason of the facts set forth above paragraphs 22 and 23 regarding prescribing medications to Patient 2 intended for Patient 1, the Respondent has subjected his license to disciplinary action under section 2234, subdivision (b), of the Code for gross negligence.

SEVENTH CAUSE FOR DISCIPLINARY ACTION

(Prescribing without Prior Examination and Medical Need)

30. By reason of the facts set forth above in paragraphs 22 and 23 regarding prescribing medications to Patient 2 intended for Patient 1, the Respondent has subjected his license to disciplinary action under section 2242, subdivision (a), of the Code for prescribing dangerous drugs without an appropriate prior examination and medical indication.

EIGHTH CAUSE FOR DISCIPLINARY ACTION

(Knowingly Making and Signing False Documents Related to the Practice of Medicine)

31. By reason of the facts set forth above in paragraphs 22 and 23 regarding prescribing medications to Patient 2 intended for Patient 1, the Respondent has subjected his license to disciplinary action under section 2261 of the Code for knowingly making or signing any certificate or document related to the practice of medicine which falsely represents the existence or nonexistence of a state of facts.

NINTH CAUSE FOR DISCIPLINARY ACTION

(Dishonesty)

32. By reason of the facts set forth above in paragraphs 22 and 23 regarding prescribing medications to Patient 2 intended for Patient 1, the Respondent has subjected his license to disciplinary action under section 2234, subdivision (e), of the Code for the commission of acts involving dishonesty or corruption related to the qualifications, functions, or duties of a physician.

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TENTH CAUSE FOR CAUSE FOR DISCIPLINARY ACTION

(Failure to Maintain Adequate and Accurate Patient Records)

33. By reasons of the facts set forth in paragraphs 22 and 23 regarding prescribing medications to Patient 2 intended for Patient 1, the Respondent has subjected his license to disciplinary action under section 2266 of the Code for his failure to maintain adequate and accurate records relating to the provision of services to his patients.

DISCIPLINARY CONSIDERATIONS

34. For purposes of determining the degree of discipline to be imposed, if any, it is alleged that effective February 5, 2007, the Respondent was disciplined in Medical Board case number 11-2005-168431, after having been convicted in 2005 of one count of grand theft arising from fraud of the Medicare Program. The Accusation discloses that he had billed for examining and treating patients but that unlicensed persons actually examined most patients at a clinic. After entering into a stipulation in which the facts charged were fully admitted, the Respondent was placed on probation with terms, including four months of actual suspension and probation for seven years, later shortened to two years.

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 37236, issued to Carlos Busuego Ferrer, M.D.;

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

3. If placed on probation, ordering Carlos Busuego Ferrer, M.D. to pay the Board the costs of probation monitoring; and

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4. Taking such other and further action as deemed necessary and proper.

DATED: JAN 12 2021

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

REJI VARGHESE
DEPUTY DIRECTOR

Complainant

LA2020602948