

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

In the Matter of the First Amended)	
Accusation Against:)	
)	
FELICIANO RIOS, M.D.)	Case No. 10-2007-185268
)	
Physician's and Surgeon's)	
Certificate No. G33272)	
)	
Respondent.)	
_____)	


DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on September 15, 2011.

IT IS SO ORDERED August 16, 2011.

MEDICAL BOARD OF CALIFORNIA

By: 
Hedy Chang, Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 LORI JEAN FORCUCCI
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4 State Bar No. 125345
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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 **In the Matter of the First Amended**
12 **Accusation Against:**

13 **FELICIANO RIOS, M.D.**
14 **1079-C Third Avenue**
Chula Vista, CA 91911

15 **Physician's and Surgeon's Certificate**
16 **No. G33272.**

17 **Respondent.**

Case No. 10-2007-185268

OAH No. 2010100202

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 **PARTIES**

21 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical
22 Board of California, Department of Consumer Affairs (Board). She brought this action solely in
23 her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of
24 the State of California, by Lori Jean Forcucci, Deputy Attorney General.

25 2. On or about July 19, 1977, the Medical Board of California issued Physician's
26 and Surgeon's Certificate No. G33272 to Respondent Feliciano Rios, M.D, (Respondent.) The
27 certificate was in full force and effect at all times relevant to the charges brought in Accusation
28 No. 10-2007-1185268 and will expire on January 31, 2013, unless renewed.

1 **JURISDICTION**

2 3. On May 10, 2010, Accusation No. 10-2007-1185268 was filed against
3 Respondent. On May 10, 2010, Respondent was served with a true and correct copy of
4 Accusation No. 10-2007-1185268, together with all other statutorily required documents, at his
5 address then on file with the Board: 1079-C Third Avenue Chula Vista, CA. On or about
6 May 18, 2011, a Notice of Defense was filed by Respondent. On or about June 28, 2011, the
7 First Amended Accusation No. 10-2007-1185268 was filed against and served to Respondent.

8 **ADVISEMENT AND WAIVERS**

9 4. Respondent has carefully read and understands the charges and allegations in
10 Accusation No. 10-2007-1185268. Respondent also has carefully read and understands the
11 effects of this Stipulated Settlement and Disciplinary Order.

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

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

21 **CULPABILITY**

22 7. Respondent admits the complete truth and accuracy of each and every charge
23 and allegation in Accusation.

24 8. Respondent agrees that his Physician's and Surgeon's Certificate No. G33272
25 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set
26 forth in the Disciplinary Order below.

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1 **CONTINGENCY**

2 9. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
3 submitted to the Board for its consideration in the above-entitled matter and, further, that the
4 Board shall have a reasonable period of time in which to consider and act on this Stipulated
5 Settlement and Disciplinary Order after receiving it.

6 10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
7 null and void and not binding upon the parties unless approved and adopted by the Board, except
8 for this paragraph, which shall remain in full force and effect. Respondent fully understands and
9 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
10 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
11 the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the
12 Board, any member thereof, and/or any other person from future participation in this or any other
13 matter affecting or involving respondent. In the event that the Board, in its discretion, does not
14 approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this
15 paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall
16 not be relied upon or introduced in any disciplinary action by either party hereto. Respondent
17 further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for
18 any reason, respondent will assert no claim that the Board, or any member thereof, was
19 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and
20 Disciplinary Order or of any matter or matters related hereto.

21 **ADDITIONAL PROVISIONS**

22 11. This Stipulated Settlement and Disciplinary Order is intended by the parties
23 herein to be an integrated writing representing the complete, final and exclusive embodiment of
24 the agreements of the parties in the above-entitled matter.

25 12. The parties agree that facsimile copies of this Stipulated Settlement and
26 Disciplinary Order, including facsimile signatures of the parties, may be used in lieu of original
27 documents and signatures and, further, that facsimile copies shall have the same force and effect
28 as originals.

1 relationship with respondent, or other relationship that could reasonably be expected to
2 compromise the ability of the monitor to render fair and unbiased reports to the Board, including,
3 but not limited to, any form of bartering, shall be in respondent's field of practice, and must agree
4 to serve as respondent's monitor. Respondent shall pay all monitoring costs.

5 The Board or its designee shall provide the approved monitor with copies of the
6 Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of
7 the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed
8 statement that the monitor has read the Decision and Accusation, fully understands the role of a
9 monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
10 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
11 signed statement.

12 Within 60 calendar days of the effective date of this Decision, and continuing
13 throughout probation, respondent's billing shall be monitored by the approved monitor.
14 Respondent shall make all records available for immediate inspection and copying on the
15 premises by the monitor at all times during business hours, and shall retain the records for the
16 entire term of probation.

17 The monitor shall submit a quarterly written report to the Board or its designee
18 which includes an evaluation of respondent's performance, indicating whether respondent's
19 practices are within the standards of practice of billing, and whether respondent is billing
20 appropriately.

21 It shall be the sole responsibility of respondent to ensure that the monitor submits
22 the quarterly written reports to the Board or its designee within 10 calendar days after the end of
23 the preceding quarter.

24 If the monitor resigns or is no longer available, respondent shall, within 5 calendar
25 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,
26 the name and qualifications of a replacement monitor who will be assuming that responsibility
27 within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within
28 60 days of the resignation or unavailability of the monitor, respondent shall be suspended from

1 the practice of medicine until a replacement monitor is approved and prepared to assume
2 immediate monitoring responsibility. Respondent shall cease the practice of medicine within 3
3 calendar days after being so notified by the Board or designee.

4 In lieu of a monitor, respondent may participate in a professional enhancement
5 program equivalent to the one offered by the Physician Assessment and Clinical Education
6 Program at the University of California, San Diego School of Medicine, that includes, at
7 minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of
8 professional growth and education. Respondent shall participate in the professional enhancement
9 program at respondent's expense during the term of probation.

10 Failure to maintain all records, or to make all appropriate records available for
11 immediate inspection and copying on the premises, or to comply with this condition as outlined
12 above is a violation of probation.

13 4. SOLO PRACTICE Respondent is prohibited from engaging in the solo
14 practice of medicine.

15 5. NOTIFICATION Prior to engaging in the practice of medicine, the
16 Respondent shall provide a true copy of the Decision and Accusation to the Chief of Staff or the
17 Chief Executive Officer at every hospital where privileges or membership are extended to
18 Respondent, at any other facility where Respondent engages in the practice of medicine,
19 including all physician and locum tenens registries or other similar agencies, and to the Chief
20 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
21 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
22 calendar days.

23 This condition shall apply to any change(s) in hospitals, other facilities or insurance
24 carrier.

25 6. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,
26 respondent is prohibited from supervising physician assistants.

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1 7. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all
2 rules governing the practice of medicine in California, and remain in full compliance with any
3 court ordered criminal probation, payments and other orders.

4 8. QUARTERLY DECLARATIONS Respondent shall submit quarterly
5 declarations under penalty of perjury on forms provided by the Board, stating whether there has
6 been compliance with all the conditions of probation.

7 Respondent shall submit quarterly declarations not later than 10 calendar days
8 after the end of the preceding quarter.

9 9. PROBATION UNIT COMPLIANCE Respondent shall comply with the
10 Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's
11 business and residence addresses. Changes of such addresses shall be immediately
12 communicated in writing to the Board or its designee.

13 Under no circumstances shall a post office box serve as an address of record,
14 except as allowed by Business and Professions Code section 2021(b).

15 Respondent shall not engage in the practice of medicine in Respondent's place of
16 residence. Respondent shall maintain a current and renewed California physician's and surgeon's
17 license.

18 Respondent shall immediately inform the Board, or its designee, in writing, of
19 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,
20 more than 30 calendar days.

21 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall be
22 available in person for interviews either at Respondent's place of business or at the probation unit
23 office, with the Board or its designee, upon request at various intervals, and either with or without
24 prior notice throughout the term of probation.

25 11. RESIDING OR PRACTICING OUT-OF-STATE In the event Respondent
26 should leave the State of California to reside or to practice, Respondent shall notify the Board or
27 its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is

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1 defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in
2 any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

3 All time spent in an intensive training program outside the State of California
4 which has been approved by the Board or its designee shall be considered as time spent in the
5 practice of medicine within the State. A Board-ordered suspension of practice shall not be
6 considered as a period of non-practice. Periods of temporary or permanent residence or practice
7 outside California will not apply to the reduction of the probationary term. Periods of temporary
8 or permanent residence or practice outside California will relieve Respondent of the responsibility
9 to comply with the probationary terms and conditions with the exception of this condition and the
10 following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and
11 Cost Recovery.

12 Respondent's license shall be automatically cancelled if Respondent's periods of
13 temporary or permanent residence or practice outside California total two years. However,
14 Respondent's license shall not be cancelled as long as Respondent is residing and practicing
15 medicine in another state of the United States and is on active probation with the medical
16 licensing authority of that state, in which case the two year period shall begin on the date
17 probation is completed or terminated in that state.

18 12. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT In the
19 event Respondent resides in the State of California and for any reason Respondent stops
20 practicing medicine in California, Respondent shall notify the Board or its designee in writing
21 within 30 calendar days prior to the dates of non-practice and return to practice. Any period of
22 non-practice within California, as defined in this condition, will not apply to the reduction of the
23 probationary term and does not relieve Respondent of the responsibility to comply with the terms
24 and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar
25 days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of
26 the Business and Professions Code.

27 All time spent in an intensive training program which has been approved by the
28 Board or its designee shall be considered time spent in the practice of medicine. For purposes of

1 this condition, non-practice due to a Board-ordered suspension or in compliance with any other
2 condition of probation, shall not be considered a period of non-practice.

3 Respondent's license shall be automatically cancelled if Respondent resides in
4 California and for a total of two years, fails to engage in California in any of the activities
5 described in Business and Professions Code sections 2051 and 2052.

6 13. COMPLETION OF PROBATION Respondent shall comply with all
7 financial obligations (e.g., cost recovery, restitution and probation costs) not later than 120
8 calendar days prior to the completion of probation. Upon successful completion of probation,
9 Respondent's certificate shall be fully restored.

10 14. VIOLATION OF PROBATION Failure to fully comply with any term
11 or condition of probation is a violation of probation. If Respondent violates probation in any
12 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
13 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
14 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,
15 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
16 shall be extended until the matter is final.

17 15. LICENSE SURRENDER Following the effective date of this Decision,
18 if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
19 the terms and conditions of probation, Respondent may request the voluntary surrender of
20 Respondent's license. The Board reserves the right to evaluate Respondent's request and to
21 exercise its discretion whether or not to grant the request, or to take any other action deemed
22 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,
23 Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the
24 Board or its designee and Respondent shall no longer practice medicine. Respondent will no
25 longer be subject to the terms and conditions of probation and the surrender of Respondent's
26 license shall be deemed disciplinary action. If Respondent reapplies for a medical license, the
27 application shall be treated as a petition for reinstatement of a revoked certificate.

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Exhibit A

First Amended Accusation No. 10-2007-1185268

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2 THOMAS S. LAZAR
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9 **BEFORE THE**
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 **In the Matter of the First Amended Accusation**
13 **Against:**

14 **FELICIANO R. RIOS, M.D.**
1079-C Third Avenue
15 Chula Vista, CA 91911

16 **Physician's and Surgeon's**
Certificate No. G33272

17 **Respondent.**

Case No. 10-2007-185268

OAH No. 2010100202

**FIRST AMENDED
ACCUSATION**

18
19 Complainant alleges:

20 **PARTIES**

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

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

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JURISDICTION

1
2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states, in pertinent part:

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

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

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

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

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

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

20 “... ”

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

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

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

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

8 “... ”

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

12 “... ”

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

14 “(a) The conviction of any offense substantially related to the
15 qualifications, functions, or duties of a physician and surgeon constitutes
16 unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical
17 Practice Act]. The record of conviction shall be conclusive evidence only of the
18 fact that the conviction occurred.

19 “... ”

20 “(d) A plea or verdict of guilty or a conviction after a plea of nolo
21 contendere is deemed to be a conviction within the meaning of this section and
22 Section 2236.1. The record of conviction shall be conclusive evidence of the fact
23 that the conviction occurred.”

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26 ¹ California Business and Professions Code section 2002, as amended and effective January 1,
27 2008, provides that, unless otherwise expressly provided, the term “board” as used in the State Medical
28 Practice Act (Bus. & Prof. Code, §§ 2000, *et seq.*) means the “Medical Board of California,” and
references to the “Division of Medical Quality” and “Division of Licensing” in the Act or any other
provision of law shall be deemed to refer to the Board.

1 and continued right and entitlement to an insurance benefit . . .” On or about November
2 14, 2008, this Felony Complaint was deemed an Information. On or about January 9,
3 2009, this case was consolidated with Case No. SCD193845 referenced in subparagraph
4 (a), above.

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

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

16 **June 17, 2010 Conviction: Illegal Possession of Ammunition**

17 (e) On and after September 23, 2009, respondent was a convicted felon
18 who could not legally possess a firearm or ammunition pursuant to order issued by
19 the San Diego Superior Court in Case No. SCD193846 and Penal code section
20 12316, subdivision (b)(1). On or about December 16, 2009, Special Agent
21 Supervisor D.W. from the California Department Justice, Bureau of Firearms
22 (BOF), initiated an investigation of respondent. A check of the Automated
23 Firearms System on or about that date indicated respondent had three firearms
24 registered in his name with no evidence of a legal transfer.

25 (f) On or about December 23, 2009, Agent D.W., three other special
26 agents from BOF, and Escondido Police Detective J.V., conducted a probation
27 search of respondent’s residence. Respondent was present at the time of the
28 search. Respondent admitted that he still possessed the three firearms at his

1 medical office located at 1079-C Third Avenue, Chula Vista, California, 91911.
2 Respondent further admitted that he was advised during his initial probation
3 interview that he could not have firearms. The special agents then went to
4 respondent's medical office, where the three handguns were found locked in a
5 filing cabinet. The two semi-automatic handguns that were retrieved had
6 ammunition in the magazines that were inserted into the firearms. There were no
7 rounds in the chamber of either weapon.

8 (g) Respondent owned and possessed firearms from on or about September 25,
9 2009, until on or about December 23, 2009, in violation of Penal Code section 12021 and
10 in violation of the terms of his criminal probation in San Diego Superior Court Case No.
11 SCD193846.

12 (h) On or about January 19, 2010, the California Attorney General filed a
13 Felony Complaint against respondent in case entitled *People of the State of California v.*
14 *Feliciano Renteria Rios, M.D.*, Superior Court Case No. SCD224816. Respondent was
15 charged with three counts of possession of a firearm by a felon, in violation of Penal Code
16 section 12021, subdivision (a)(1), and two counts of possession of ammunition by a felon,
17 in violation of Penal Code section 12316, subdivision (b)(1).

18 (i) On or about June 17, 2010, in the case entitled *The People of the State of*
19 *California v. Feliciano Rios, M.D.*, San Diego Superior Court Case No. SCD224816,
20 respondent pled guilty to two counts of violation of Penal Code section 12316,
21 subdivision (b)(1), possession of ammunition by a felon,

22 (j) On or about June 17, 2010, in the case entitled *The People of the State of*
23 *California v. Feliciano Rios, M.D.*, San Diego Superior Court Case No. SCD224816,
24 respondent was sentenced to two years in state prison, however, execution of sentence was
25 suspended, and respondent was placed on probation, with terms and conditions including
26 17 days custody and a \$5,000 fine.

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1 medical profession, or conduct which is unbecoming to a member in good standing of the medical
2 profession, and which demonstrates an unfitness to practice medicine, as more particularly
3 alleged in Paragraphs 8 through 10, above, which hereby incorporated by reference as if fully set
4 forth herein.

5 PRAYER

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

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

15
16 DATED: 6/27/11

Linda K. Whitney
by Seyoum Fild DAG
LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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27 profession, and which demonstrates an unfitness to practice medicine. *Shea v. Board of Medical*
28 *Examiners*, (1978) 81 Cal.App.3d 654.