

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

In the Matter of the Accusation Against:

Richard Bruce Levin, M.D.

Physician's & Surgeon's
Certificate No. G 29331

Petitioner.

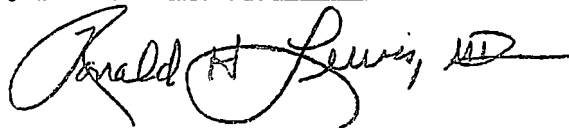
Case No.: 800-2016-020308

ORDER DENYING PETITION FOR RECONSIDERATION

The Petition filed by Richard Bruce Levin, M.D., for the reconsideration of the decision in the above-entitled matter having been read and considered by the Medical Board of California, is hereby denied.

This Decision remains effective at 5:00 p.m. on May 15, 2020.

IT IS SO ORDERED: May 15, 2020

A handwritten signature in black ink, appearing to read "Ronald H. Lewis, MD", written over a horizontal line.

Ronald H. Lewis, M.D., Chair
Panel A

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

In the Matter of the Accusation Against:)

Richard Bruce Levin, M.D.)

Physician's and Surgeon's)
Certificate No. G 29331)

Respondent)

MBC No. 800-2016-020308

ORDER GRANTING STAY

(Government Code Section 11521)

Richard Bruce Levin, M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of April 17, 2020, at 5:00 pm.

Execution is stayed until May 15, 2020, at 5:00 p.m.

This stay is granted solely for the purpose of allowing the Board time to review and consider the Petition for Reconsideration.

DATED: April 16, 2020


Christine J. Lally
Interim Executive Director
Medical Board of California

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

**In the Matter of the Accusation)
Against:)**

Richard Bruce Levin, M.D.)

Case No. 800-2016-020308

**Physician's and Surgeon's)
Certificate No. G 29331)**

**Respondent)
_____)**

DECISION

The attached Proposed Decision is hereby amended, pursuant to Government Code section 11517(c)(2)(C), to correct a clerical error that does not affect the factual or legal basis of the Proposed Decision. The Proposed Decision is amended as follows:

1. Page 15, paragraph 7: should read section 2262.
2. Page 15, paragraph 9: should read section 2525.3

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 April 17, 2020.

IT IS SO ORDERED March 20, 2020.

MEDICAL BOARD OF CALIFORNIA

By: _____

**Ronald H. Lewis, M.D., Chair
Panel A**

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

In the Matter of the Accusation Against:

RICHARD BRUCE LEVIN, M.D., Respondent

Physician's and Surgeon's Certificate No. G29331

Case No. 800-2016-020308

OAH No. 2019070756

PROPOSED DECISION

Abraham M. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on February 10, 2020, in Encinitas, California.

Christine Rhee, Deputy Attorney General, Department of Justice, State of California, represents complainant Christine Lally, Interim Executive Director of the Medical Board of California.

Respondent Richard Bruce Levin, M.D. represented himself.

The matter was submitted on February 10, 2020.

SUMMARY

Complainant asserts that respondent's license should be revoked because he is unable to practice medicine safely due to mental and/or physical illness affecting competency and because he engaged in misconduct when he issued medical marijuana recommendations to two undercover investigators posing as patients. Respondent does not dispute he is unable to practice medicine due to his medical condition. He disputes that he engaged in misconduct regarding the medical marijuana recommendations he made, but he did not materially dispute the findings and conclusions of complainant's expert witness. Based on the evidence of record, it is concluded that respondent is unable to practice medicine safely because he has a medical condition affecting his competency. It is further concluded that respondent committed multiple instances of misconduct when he issued medical marijuana recommendations to two undercover investigators posing as patients without conducting good faith prior examinations of them, and recorded false information about the results of exams in their medical records. In the interest of public safety, despite his long history as a doctor without discipline, it is necessary that respondent's license be revoked.

FACTUAL FINDINGS

Jurisdiction

1. On February 15, 2019, Kimberly Kirchmeyer, who was then Executive Director of the Medical Board of California (board), signed the accusation. The accusation contains a cause for action and seven causes for discipline. In the First Cause for Action, complainant alleges that respondent is impaired due to mental

and/or physical illness effecting his competency to practice medicine. Complainant alleges under the First through Seventh Causes for Discipline that respondent committed gross negligence, repeated negligent acts, issued recommendations for medical marijuana to two patients without appropriate prior exams or medical indication, engaged in dishonesty or corruption, knowingly made or signed documents that falsely represented the existence or nonexistence of facts, modified medical records with fraudulent intent, and failed to maintain adequate or accurate records.

License History, Interim Suspension Order, Respondent's Present Medical Condition and Ability to Practice Medicine

2. On May 27, 1975, the board issued Physician's and Surgeon's Certificate Number G29331 to respondent. The certificate expired on August 31, 2019, but was in full force and effect at all times relevant to these charges. Pursuant to Business and Professions Code section 118, the board retains jurisdiction over respondent's license despite its expiration. Respondent has no history of discipline.

3. Respondent's license is currently suspended under the terms of a stipulated interim suspension order which respondent signed on March 22, 2019. In this stipulation and order, respondent admitted the following:

Respondent admits that Petitioner could establish a prima facie case establishing that he is presently unable to practice medicine safely due to a physical condition, and that permitting him to continue to practice medicine would endanger the public health, safety and welfare. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in

which the Board or another professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

4. Respondent did not dispute that he cannot practice medicine due to his physical condition. At the hearing, he testified he had a stroke, is in a lot of pain, and as an indication of the extent of his medical problems, he found it hard to participate in the hearing. Respondent required assistance to walk, even with a walker, used an oxygen feed to assist him with breathing, and needed a hearing device to understand what was said at the hearing. Despite this, respondent had difficulty hearing. He appeared uncomfortable, in pain, and at times confused.

5. In a letter dated September 26, 2018, to the Health Quality Investigation Unit (HQIU) of the Division of Investigations, to the attention of HQIU Investigator Steven Brewer, respondent emphasized that he is in continual, often severe pain, confined to bed rest, and he is on oxygen at all times. (Exhibit 13.) He advised HQIU he was unable to function as a doctor as he was once able to do, and he was not able to tolerate physical and mental health exams that the board wanted him to undergo. Respondent added that he is unable to function as a doctor until he makes a "significant recovery."

In this letter respondent copied two of his doctors. At the hearing he did not offer letters from these doctors or dispute that he remains unable to practice medicine safely due to a physical condition.

6. In the declaration Mr. Brewer submitted in support of the petition for the interim suspension order he stated he went to respondent's house on September 20, 2018, and found respondent in poor health. He had difficulty walking, used an oxygen

supply, and he was unable to participate in an interview regarding the allegations in this matter because he had a stroke and was in poor health. Mr. Brewer gave respondent agreements for him to review for physical and mental exams. Respondent sent Mr. Brewer the letter dated September 28, 2018, summarized above in response to Mr. Brewer's request that he voluntarily participate in mental and physical exams.

Summary of Evidence Regarding HQIU Investigation, Respondent's Medical Marijuana Recommendations, and the Testimony of Timothy Fong, M.D.

7. As noted, complainant has charged respondent with seven causes for discipline related to two medical marijuana recommendations he issued to two HQIU investigators who posed as patients at the clinic where respondent worked. The facts of these investigations are found in declarations from HQIU investigators Jose Partida and Eric Ryan and admitted as evidence pursuant to Government Code section 11514. In their declarations, Investigators Partida and Ryan state the following:

8. Mr. Partida is an HQIU investigator who was assigned to pose as a patient in an undercover operation of respondent at the clinic named "SD 420 Evaluations" where he worked. The board had received a complaint that medical marijuana recommendations were being issued without proper prior examinations, and the matter was assigned to HQIU for investigation. On April 5, 2016, Mr. Partida

went to SD 420 Evaluations under the identity of patient "Juan Perez."¹ He was asked to provide general personal information about himself and the reasons he was seeking medical marijuana. He wrote that he had back pain, and that pain pills, specifically Vicodin, had not provided much relief but marijuana had helped. While he was completing the form, he saw respondent enter the business and walk into an office behind the reception area. He was called into the back office by a person who identified herself as "Joslyn". Joslyn took Mr. Partida's blood pressure, which was approximately 170/80. She told Mr. Partida that his blood pressure was high and that medical marijuana is usually not recommended for someone with high blood pressure. Mr. Partida stated that his pulse rate was not taken. Joslyn told Mr. Partida that she had already approved him for a medical marijuana recommendation and had six certificates for him on the desk. He signed all six certificates and obtained an identification card. Joslyn then told Mr. Partida that a two-year recommendation with two identifications for each calendar year cost \$100. Mr. Partida paid this sum, and she gave him two envelopes containing one medical recommendation, captioned "Physician's Statement & Recommendation (medical marijuana recommendation)" for April 5, 2016, to April 5, 2017, and another for April 5, 2017, to April 5, 2018. This statement contained respondent's signature and states:

This document affirms the fact that the patient whose name is indicated above has undergone and evaluation whereby the [licensed] physician. . . recommends that the above

¹The patients in this matter are referred to as "Perez" and "White". The accusation refers to them by their initials, but because these are false identities there is no privacy interests to protect.

mentioned patient qualifies for the use of cannabis for medical purposes under California Health and Safety Code section 11362.5 [Compassionate Use Act of 1996].

Joslyn then asked him "Mr. Perez" if he wanted to see the doctor. He asked her if he needed to see the doctor. Joslyn said it was an option, but that if he wanted to see the doctor it was only by appointment. Mr. Partida left without speaking to respondent or submitting to a physical examination.

Mr. Partida signed an authorization dated January 25, 2018, for the release of medical information from SD 420 Evaluations/respondent for patient "Juan Perez."

SD 420 Evaluations supplied records that included an "Examiner's Evaluation", a box check off list signed by "Shaleese Smith" dated April 5, 2016, and a hand written record initialed by respondent with the stamped date "April 26, 2016." Per Mr. Partida's declaration, the records inaccurately recorded Mr. Perez's blood pressure was 123 over 74 and that his pulse rate was 81. Mr. Partida also stated that the records falsely stated that he smoked "5 sticks [of tobacco] a day" and that he had been referred for a protocol dealing with back pain, had been referred for a prostate examination and for a PSA ²blood test in the evaluation of his low back pain and had been referred to Smokers' Anonymous to quit smoking. Mr. Partida wrote in his declaration he never received this counseling.

Respondent's note with the stamped date of April 26, 2016, is difficult to read, but the following words and phrases are legible: "L Back pain", "Prostate & PSA", "Quit! They Kill! Use Smoking [illegible]." The clear impression from this note is that

² This is a test to assess the prostate and whether there are indications for cancer.

respondent accessed "Mr. Perez" for lower back pain, discussed with him the need to have his prostate tested and quit smoking. The note is a falsified medical record; respondent did not see "Mr. Perez" and never discussed these matters with him.

9. Eric Ryan is an HQUI Investigator. On August 3, 2016, he went to SD 420 Evaluations under the identity of patient "Edward Thomas White." He told the receptionist he was a new patient who wanted a two-year medical marijuana recommendation. He completed forms regarding his personal information and stated that he was seeking medical marijuana due to off and on back pain which was getting better and that he had taken Advil and marijuana for prior treatment.

Mr. Ryan was taken to a back office of the clinic and the receptionist told him that she had faxed his information to the doctor. She asked him why he was there and he told her because he had lower back pain from doing yard work. She asked him whether he had blood pressure problems and he told her he did not. The receptionist asked him further for his height and weight, and told him that if he wanted to see a doctor he could come back on Tuesday. The receptionist then gave him two copies of one year's medical marijuana recommendation for the August 3, 2016, to August 3, 2017, and August 3, 2017, to August 3, 2018, time frames, in two separate envelopes. Respondent signed the "Physician's Statement & Recommendation." Mr. Ryan never saw respondent.

Mr. Ryan signed a release for the records for Mr. White which SD 420 Evaluations sent. These records include an intake form and box check list signed by a person whose name cannot be discerned dated August 3, 2016, and a handwritten record with respondent's initials with the stamped date August 9, 2016. These records state that "Mr. White's" blood pressure and pulse rate were recorded on August 3, 2016, when both sets of vitals were not taken. The records also state that "Mr. White"

was referred, on August 9, 2016, to the protocol for dealing with back pain and had been referred for a prostate examination and a "PSA" test in the evaluation of his low back pain. Mr. Ryan stated that he never received such counseling.

Respondent's handwritten note stamped August 9, 2016, is very brief. It does not record Mr. White's blood pressure or that respondent counseled him. Though the note is difficult to read it appears to repeat Mr. White's medical history as he described it on August 3, 2016, and quotes Mr. White saying that marijuana "helps a lot" regarding his back pain. His August 9, 2016, note also appears to refer him to an "ortho" for his back pain. Respondent's note leaves the impression that respondent saw Mr. White, examined him and referred him for follow-up care when he never saw him. The note is a falsified medical record.

10. Timothy W. Fong, M.D. is a clinical professor at the David Geffen School of Medicine at UCLA, Semel Institute of Neuroscience and Behavior, Department of Psychiatry and Biobehavioral Sciences. He is on the Executive Committee of the UCLA Cannabis Research Initiative. Dr. Fong is the author of numerous peer reviewed studies and articles. He is licensed to practice medicine in California and is board certified by the American Board of Psychiatry and Neurology.

Dr. Fong reviewed the evidence of record in this matter, Mr. Partida's and Mr. Ryan's declarations, the medical records they obtained documenting their visits posing as patients, and the medical marijuana recommendations respondent signed.

Dr. Fong identified that standard of care for issuing medical marijuana recommendations in 2016 required the following "core elements": a patient-physician relationship, patient evaluation, informed and shared decision making, a treatment agreement, ongoing monitoring, adapting of the treatment plan, and proper medical

record keeping. Dr. Fong testified that a medical marijuana recommendation should not exceed one year later from the initial recommendation as a matter of the standard of care.

Based on the materials he reviewed, Dr. Fong concluded that respondent failed to fulfill any of these basic requirements to meet the standard of care in recommending medical marijuana to both persons. Respondent never met and never examined either patient; both patients received medical marijuana recommendations signed by respondent without any instructions or monitoring of symptoms and were not provided follow-up information or monitoring to assess the efficacy of the medical marijuana treatment. Multiple year recommendations were provided immediately without scheduled follow-up visits. Dr. Fong found that the failure to meet these core elements is an extreme departure from the standard of care.

Dr. Fong also found that respondent departed from the standard of care to maintain adequate and accurate records because the records of both patients were not adequate, or accurate. Based on Mr. Partida's and Mr. Ryan's declarations, these records reflect discussions with the two patients that did not occur. Also, the records contain boiler plate check boxes that did not contain individual information about both patients. Dr. Fong stated that falsifying medical records to include procedures and medical data that did not occur is an extreme departure from the standard of care.

Respondent's Testimony

11. Respondent did not dispute that he cannot practice medicine because of his medical condition, and he did not materially dispute the evidence regarding his issuance of the medical marijuana recommendations aside from saying that Dr. Fong's testimony was "inflammatory". He wanted to emphasize that throughout his long

career he has not been disciplined, and he has performed physical exams of patients where he has discovered information that saved their lives. Respondent described exams he performed where through his detailed assessment of patients he was able to discover that they had serious medical problems, including cancer, that required referral and treatment. In sum, respondent appeared to say that the allegations against him do not reflect his history as a dedicated physician.

LEGAL CONCLUSIONS

Purpose of Physician Discipline

1. The purpose of the Medical Practice Act (Chapter I, Division 2, of the Business and Professions Code) is to assure the high quality of medical practice; in other words, to keep unqualified and undesirable persons and those guilty of unprofessional conduct out of the medical profession. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 574.)

The purpose of administrative discipline is not to punish, but to protect the public by eliminating those practitioners who are dishonest, immoral, disreputable or incompetent. (*Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.)

Burden and Standard of Proof

2. Complainant bears the burden of proof of establishing that the charges in the accusation are true.

The standard of proof in an administrative action seeking to suspend or revoke a physician's certificate is clear and convincing evidence. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence

requires a finding of high probability, or evidence so clear as to leave no substantial doubt; sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

Applicable Statutes Regarding Causes to Impose Discipline

3. Section³ 2227, subdivision (a), states:

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) 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

³ References are to the Business and Professions Code unless otherwise stated.

complete relevant educational courses approved by the board.

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

4. Section 2234 provides in 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:

[1] . . . [1]

(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] . . . [1]

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

5. Section 822 provides as follows:

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

- (a) Revoking the licensee's certificate or license.
- (b) Suspending the licensee's right to practice.
- (c) Placing the licensee on probation.
- (d) Taking such other action in relation to the licensee 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.

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

7. Section 2261 provides that "Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct."

8. Section 2266 provides:

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.

9. Section 2523.1 provides:

Recommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

The Compassionate Use Act of 1996

10. The authority for the issuance of medical marijuana recommendations is found in Health and Safety Code section 11362.5, which provides as follows:

(a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b) (1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been

recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary

caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

Decisional Authority Regarding Standard of Care

11. The standard of care requires the exercise of a reasonable degree of skill, knowledge, and care that is ordinarily possessed and exercised by members of the medical profession under similar circumstances. The standard of care involving the acts of a physician must be established by expert testimony. (*Elcome v. Chin* (2003) 110 Cal.App.4th 310, 317.) It is often a function of custom and practice. (*Osborn v. Irwin Memorial Blood Bank* (1992) 5 Cal.App.4th 234, 280.)

Courts have defined gross negligence as "the want of even scant care or an extreme departure from the ordinary standard of care." (*Kearl v. Board of Medical Quality Assurance* (1986) 189 Cal.App.3rd 1040, 1052.) Simple negligence is merely a departure from the standard of care. Incompetence has been defined as "an absence of qualification, ability or fitness to perform a prescribed duty or function." (*Id.* at 1054).

Disposition Regarding Causes for Discipline

CAUSE EXISTS UNDER THE CAUSE OF ACTION AGAINST RESPONDENT'S LICENSE

12. Complainant proved by clear and convincing evidence that respondent's ability to practice his profession safely is impaired because he has a physical condition affecting his competency. Respondent did not dispute that as a result of a stroke he cannot function as a doctor and is unable to practice medicine safely. Accordingly, it is found that permitting respondent to continue to practice medicine would endanger the public health, safety and welfare.

CAUSE EXISTS UNDER THE FIRST CAUSE FOR DISCIPLINE TO IMPOSE DISCIPLINE AGAINST RESPONDENT'S LICENSE FOR CONDUCT CONSTITUTING GROSS NEGLIGENCE

13. Complainant proved by clear and convincing evidence that respondent committed gross negligence pursuant to Section 2234, subdivision (b), based on Dr. Fong's credible testimony, which was well-supported in the record, as follows: respondent failed to complete in-person evaluations and physical examinations of patients "Perez" and "White" before he issued medication marijuana recommendations to them; he failed to provide these patients with instructions on monitoring symptoms or follow-up information for medical care; he issued medical marijuana recommendations for more than one year without asking the patients to return annually; respondent did not meet both patients and did not establish patient-physician relationships with them; respondent failed to document the basic elements of the patients' histories, the results of physical exams he performed on them, diagnosis, treatment plan or any evidence of informed decision-making; and

respondent falsified both patients' medical records as found earlier in this decision. His handwritten notes leave the impression he examined or accessed both patients and advised them regarding follow-up care which they did not, in fact, receive.

**CAUSE EXISTS UNDER THE SECOND CAUSE FOR DISCIPLINE TO IMPOSE
DISCIPLINE AGAINST RESPONDENT'S LICENSE FOR REPEATED NEGLIGENT
ACTS**

14. Complainant proved by clear and convincing evidence that respondent committed repeated negligent acts pursuant to Section 2234, subdivision (c), based on the findings he committed gross negligence under the First Cause for Discipline as found immediately above.

**CAUSE EXISTS UNDER THE THIRD CAUSE FOR DISCIPLINE TO IMPOSE
DISCIPLINE AGAINST RESPONDENT'S LICENSE FOR ISSUING A
RECOMMENDATION WITHOUT EXAMINATION OR INDICATION**

15. Complainant proved by clear and convincing evidence that respondent violated Section 2525.3 when he issued medical marijuana recommendations to patients "Perez" and "White" without an appropriate prior medical examination and/or medical indications. Respondent did not exam either of these patients, and there is no evidence he reviewed their intake information before he issued the recommendations.

**CAUSE EXISTS UNDER THE FOURTH CAUSE FOR DISCIPLINE TO IMPOSE
DISCIPLINE AGAINST RESPONDENT'S LICENSE FOR DISHONESTY**

16. Complainant proved by clear and convincing evidence that respondent engaged in acts of dishonesty pursuant to Section 2234, subdivision (e). He signed medical marijuana recommendations for patients "Perez" and "White" and in these

recommendations affirmed that they were evaluated for the use of cannabis for medical purposes when he never evaluated them for this purpose.

CAUSE EXISTS UNDER THE FIFTH CAUSE FOR DISCIPLINE FOR FALSE REPRESENTATIONS

17. Complainant proved by clear and convincing evidence that respondent knowingly made and signed documents related to the practice of medicine that falsely represented the existence of facts related to his care and treatment of patients "Perez" and "White" pursuant to Section 2261: Respondent stated in their medical marijuana recommendations that they were evaluated for the use of cannabis for medical purposes when respondent never evaluated them for this purpose, he recorded that he referred "Mr. White" for follow-up with an orthopedic doctor due to his back pain and prostate when this was never done, he did not evaluate "Mr. Perez" for follow-up care regarding his prostate and did not advise him to quit smoking.

CAUSE DOES NOT EXIST UNDER THE SIXTH CAUSE FOR DISCIPLINE FOR MODIFYING MEDICAL RECORDS WITH FRAUDULENT INTENT

18. Complainant did not prove pursuant to Section 2262, by clear and convincing evidence, that respondent modified patient "Perez's" and "White's" medical records with fraudulent intent.

CAUSE EXISTS UNDER THE SEVENTH CAUSE FOR DISCIPLINE FOR FAILURE TO MAINTAIN ADEQUATE AND ACCURATE RECORDS

19. Complainant proved pursuant to Section 2266, by clear and convincing evidence that respondent failed to maintain adequate and accurate records for.

patients "Perez" and "White". The records for both these patients contain false and inaccurate information as found earlier in this decision.

The Board's Disciplinary Guidelines and Regulations Regarding the Degree of Discipline to Impose

20. With causes for discipline having been found, the determination now must be made regarding the degree of discipline and the terms and conditions to impose. In this regard, the board's Manual of Model Disciplinary Orders and Disciplinary Guidelines (12th Edition 2016) states:

The Board expects that, absent mitigating or other appropriate circumstances such as early acceptance of responsibility, demonstrated willingness to undertake Board-ordered rehabilitation, the age of the case, and evidentiary problems, Administrative Law Judges hearing cases on behalf of the Board and proposed settlements submitted to the Board will follow the guidelines, including those imposing suspensions. Any proposed decision or settlement that departs from the disciplinary guidelines shall identify the departures and the facts supporting the departure.

21. The determination whether respondent's license should be revoked or suspended includes an evaluation of the nature and severity of the conduct and rehabilitation and mitigation factors as set forth under California Code of Regulations, title 16, section 1360.1, which provides as follows:

When considering the suspension or revocation of a license, certificate or permit on the ground that a person holding a license, certificate or permit under the Medical Practice Act has been convicted of a crime, the division, in evaluating the rehabilitation of such person and his or her eligibility for a license, certificate or permit shall consider the following criteria:

- (a) The nature and severity of the act(s) or offense(s).
- (b) The total criminal record.
- (c) The time that has elapsed since commission of the act(s) or offense(s).
- (d) Whether the licensee, certificate or permit holder has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.
- (e) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (f) Evidence, if any, of rehabilitation submitted by the licensee, certificate or permit holder.

22. For the violations established, the board's disciplinary guidelines provide that revocation is the maximum discipline and identify various terms and conditions of probation. These terms and conditions may include completion of a clinical competency program, successful completion of education courses, oversight by a practice monitor, submission of quarterly reports, interviewing with the board as

appropriate. Because of respondent's physical condition and, as has been found, that he is unable to practice medicine safely due to this condition, respondent is not amenable to being placed on probation even if a period of probation with terms and conditions were to be found an appropriate level of discipline.

Disposition Regarding the Degree of Discipline

23. As noted, the purpose of an administrative proceeding seeking the revocation or suspension of a professional license is not to punish the individual, the purpose is to protect the public from dishonest, immoral, disreputable or incompetent practitioners. (*Fahmy, supra*, 38 Cal.App.4th at p. 817.) Rehabilitation is a state of mind and the law looks with favor upon rewarding with the opportunity to serve one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.)

The determination of whether respondent's license should be revoked or suspended includes an evaluation of the nature and severity of the conduct and rehabilitation and mitigation factors as set forth under California Code of Regulations, title 16, section 1360.1.

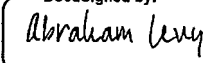
24. After considering the board's guidelines, and the factors under California Code of Regulations, title 16, section 1360.1, and the evidence of record as a whole, it is determined that the public interest requires that respondent's license be revoked for these reasons: Respondent is presently unable to practice medicine safely due to his physical condition. Respondent, further, committed numerous acts of serious misconduct when he issued medical marijuana recommendations to two patients without examining them, and he falsified their medical records to make it seem he evaluated them to determine whether their health would benefit from the use of

marijuana. Respondent offered no evidence of rehabilitation to warrant a level of discipline less than revocation. With this noted, it is recognized that respondent has practiced medicine for a time without discipline and appears to have been a dedicated physician.

ORDER

Certificate No. G29331 issued to respondent, Richard Bruce Levin, M.D., is revoked.

DATE: February 20, 2020

DocuSigned by:

C84194237D2243C
ABRAHAM M. LEVY

Administrative Law Judge

Office of Administrative Hearings

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 CHRISTINE A. RHEE
Deputy Attorney General
4 State Bar No. 295656
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9455
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2016-020308

14 **RICHARD BRUCE LEVIN, M.D.**
15 **350 N. El Camino Real Spc 20**
Encinitas, CA 92024-2821

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. G29331,**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about May 27, 1975, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G29331 to Richard Bruce Levin, M.D. (Respondent). Physician's and Surgeon's
27 Certificate No. G29331 was in full force and effect at all times relevant to the charges brought
28 herein and will expire on August 31, 2019, 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 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.

“...”

5. Section 822 of the Code states, in pertinent part:

“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.

1 “(c) Placing the licentiate on probation

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

4 “...”

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

6 “The board shall take action against any licensee who is charged with
7 unprofessional conduct. In addition to other provisions of this article, unprofessional
8 conduct includes, but is not limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, assisting in or
10 abetting the violation of, or conspiring to violate any provision of this chapter.

11 “(b) Gross negligence.

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

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

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

24 “...”

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

28 “...”

1 7. Section 2261 of the Code states:

2 “Knowingly making or signing any certificate or other document directly or
3 indirectly related to the practice of medicine or podiatry which falsely represents the
4 existence or nonexistence of a state of facts, constitutes unprofessional conduct.”

5 8. Section 2262 of the Code states, in pertinent part:

6 “Altering or modifying the medical record of any person, with fraudulent intent,
7 or creating any false medical record, with fraudulent intent, constitutes unprofessional
8 conduct.

9 “...”

10 9. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
11 adequate and accurate records relating to the provision of services to their patients constitutes
12 unprofessional conduct.”

13 10. Unprofessional conduct is conduct which breaches the rules or ethical code of the
14 medical profession, or conduct which is unbecoming to a member in good standing of the medical
15 profession, and which demonstrates an unfitness to practice medicine. *Shea v. Board of Medical*
16 *Examiners* (1978) 81 Cal.App.3d 564, 575.

17 11. Section 2525.3 of the Code states:

18 “Recommending medical cannabis to a patient for a medical purpose without an
19 appropriate prior examination and a medical indication constitutes unprofessional
20 conduct.”

21 **STATEMENT OF FACTS**

22 12. On or about February 16, 2016, the Board received an online complaint that medical
23 marijuana recommendations were being issued for one, two, and three years without a proper
24 examination. The complaint alleged that a receptionist was issuing these recommendations in
25 Respondent’s name.

26 Patient J.P. – Undercover Patient

27 13. On or about April 5, 2016, an undercover visit was made to SD 420 Evaluations,
28 located at 7400 El Cajon Boulevard in La Mesa, California, by a male investigator posing as

1 Patient J.P. Patient J.P. introduced himself to the receptionist as a new patient. At the reception
2 desk, there was a piece of paper that listed the cost for the medical marijuana recommendation
3 with the option for three months, one year, two years, and three years for new patients and
4 renewals. The receptionist gave Patient J.P. a clipboard with forms to fill out, and verified Patient
5 J.P.'s identification. The forms asked for Patient J.P.'s general personal information, including
6 his occupation, current medications, surgical history, and reasons for seeking medical marijuana.
7 Patient J.P. wrote that he had back pain, and that pain pills, specifically Vicodin, had not provided
8 much relief, but that marijuana had helped.

9 14. While Patient J.P. was filling out the forms in the lobby, he saw Respondent enter the
10 business through the front door and walk into an office located behind the reception area.

11 15. After completing the forms, Patient J.P. gave the clipboard and forms back to the
12 receptionist. Patient J.P. was called back to a back office by an employee who later identified
13 herself as "Joslyn." The back office had a large office desk, two chairs, a laptop, and a
14 laminating machine.

15 16. Joslyn took Patient J.P.'s blood pressure with a blood pressure cuff. Patient J.P.
16 observed that his blood pressure measured approximately 170 over 80. Joslyn told Patient J.P.
17 that his blood pressure was high, and that medical marijuana is not normally recommended for
18 someone with high blood pressure.

19 17. Joslyn then told Patient J.P. that she had already had him approved for a medical
20 marijuana recommendation, and had six certificates with Patient J.P.'s name on the desk. Patient
21 J.P. signed all six certificates. Patient J.P. agreed to buy an identification for an additional
22 \$15.00. Joslyn took Patient J.P.'s photograph then printed out, embossed, and laminated an
23 identification card for him.

24 18. Joslyn then told Patient J.P. that a two-year recommendation with two identifications,
25 one identification for each calendar year, would cost \$100.00. Patient J.P. paid Joslyn with cash
26 and she gave him two envelopes containing one medical marijuana recommendation for 2016 to
27 2017 and one medical marijuana recommendation for 2017 to 2018.

28 ///

1 19. Joslyn asked Patient J.P. if he wanted to see the doctor. Patient J.P. asked her if he
2 needed to see the doctor. Joslyn said it was optional, but if he wanted to see the doctor, it was by
3 appointment only. Shortly thereafter, Patient J.P. left the business without ever speaking to
4 Respondent or submitting to a physical examination.

5 20. On or about April 6, 2018, Board investigators received certified copies of Patient
6 J.P.'s medical records. On or about April 9, 2018, Board investigators reviewed these certified
7 records. They determined that the records contain false and inaccurate information about Patient
8 J.P.'s visit. More specifically, the records inaccurately state that Patient J.P.'s blood pressure
9 measured 123 over 74, and that his pulse was 81. In reality, Patient J.P.'s blood pressure was
10 approximately 170 over 80 and his pulse was never taken at the visit. The records also falsely
11 indicate that Patient J.P. reported that he smoked tobacco, "5 sticks a day," and that Patient J.P.
12 had been referred to the protocol for dealing with back pain, had been referred for examination of
13 his prostate gland and for a PSA blood test in the evaluation of his low back pain, and had been
14 referred to Smokers' Anonymous to quit smoking. Patient J.P. never received this counseling
15 during his visit. The records also include handwritten records that appear to be authored by
16 Respondent, indicating that Patient J.P. had back pain and that he should check his prostate and
17 PSA, and that he should quit smoking. The handwritten note was date stamped April 26, 2016.

18 21. Patient J.P.'s certified records include a "Physician's Statement & Recommendation"
19 that is signed by Patient J.P. and Respondent, identified by his Physician's and Surgeon's
20 Certificate No. G29331. The recommendation states, in pertinent part:

21 "[t]his document affirms the fact that the patient whose name is indicated above has
22 undergone an examination and evaluation whereby the physician, who is licensed to
23 practice medicine in the State of California and whose name and license number are
24 indicated below recommends that the above mentioned patient qualifies for the use of
25 cannabis for medical purposes under California Health and Safety Code section
26 11362.5..."

27 ///

28 ///

1 Patient E.R. – Undercover Patient

2 22. On or about August 3, 2016, an undercover visit was made to SD 420 Evaluations by
3 another male investigator posing as Patient E.R. Patient E.R. introduced himself to the
4 receptionist as a new patient who wanted a two-year recommendation. The receptionist told
5 Patient E.R. that the recommendation would cost \$70.00, gave Patient E.R. a clipboard with
6 forms to fill out, and verified Patient E.R.'s identification. The forms asked for Patient E.R.'s
7 general personal information, including his occupation, current medications, surgical history, and
8 reasons for seeking medical marijuana. Patient E.R. wrote that he had back pain off and on which
9 was getting better, and that he had taken Advil and marijuana for prior treatment.

10 23. After completing the forms, Patient E.R. gave the clipboard and forms back to the
11 receptionist. Patient E.R. was called by the receptionist to a back office, which contained a desk,
12 computer, and a few chairs. The receptionist told Patient E.R. that she had faxed his information
13 to the doctor. The receptionist asked Patient E.R. why he was there, and he said he had lower
14 back pain from doing yard work. She also asked whether Patient E.R. had blood pressure
15 problems, and he said no. The receptionist asked for Patient E.R.'s height and weight. The
16 receptionist told Patient E.R. that if he wanted to see the doctor, he could come back on Tuesday.
17 She then provided Patient E.R. with six copies of the recommendation to sign, and instructed
18 Patient E.R. to call in a year to activate the second year's recommendation. She then gave Patient
19 E.R. two copies of one year's recommendation in two separate envelopes. Shortly thereafter,
20 Patient E.R. left the office. Patient E.R. never saw Respondent, nor was he physically examined
21 during this visit.

22 24. On or about April 6, 2018, Board investigators received certified copies of Patient
23 E.R.'s medical records. On or about April 9, 2018, Board investigators reviewed these certified
24 records. They determined that the records contain false and inaccurate information about Patient
25 E.R.'s visit. More specifically, the records inaccurately document that Patient E.R.'s blood
26 pressure measured 118 over 67, and that his pulse was 72. Patient E.R.'s blood pressure and
27 pulse were never measured during his visit. The records also falsely indicate that Patient E.R. had
28 been referred to the protocol for dealing with back pain and had been referred for examination of

1 his prostate gland and for a PSA blood test in the evaluation of his low back pain. Patient E.R.
2 never received this counseling during his visit. The records also include handwritten records that
3 appear to be authored by Respondent, reiterating what Patient E.R. had written on the forms about
4 having back pain and how using marijuana had helped. The handwritten note was date stamped
5 August 9, 2016. There is no documentation in the certified medical records that Patient E.R.'s
6 information had been faxed to Respondent for his review.

7 25. Patient E.R.'s certified records include a "Physician's Statement &
8 Recommendation" that is signed by Patient E.R. and Respondent, identified by his Physician's
9 and Surgeon's Certificate No. G29331. The recommendation states, in pertinent part:

10 "[t]his document affirms the fact that the patient whose name is indicated above has
11 undergone an examination and evaluation whereby the physician, who is licensed to
12 practice medicine in the State of California and whose name and license number are
13 indicated below recommends that the above mentioned patient qualifies for the use of
14 cannabis for medical purposes under California Health and Safety Code section
15 11362.5..."

16 26. On or about September 20, 2018, Board investigators met with Respondent at his
17 residence to schedule an interview. Respondent told the investigators he could not attend an
18 interview because he was in poor health, and that he was no longer practicing medicine due to a
19 stroke. Respondent refused to submit to voluntary physical and mental examinations.

20 27. On or about September 21, 2018, a Board investigator spoke to Respondent on the
21 phone. Respondent told the Board investigator that his health had declined to the point where he
22 could no longer practice medicine safely, and that he had difficulty seeing, hearing, and reading.
23 Respondent also said he was in pain, and that his memory had declined.

24 28. On or about September 26, 2018, a Board investigator received a letter by e-mail
25 from Respondent. In the letter, citing his difficulty breathing without oxygen and his severe pain,
26 Respondent acknowledged the "current impossibility of functioning as the meticulous Doctor that
27 I usually was."

28 ///

FIRST CAUSE FOR ACTION
(Mental and/or Physical Illness Affecting Competency)

29. Respondent is subject to action under section 822 of the Code in that his ability to practice medicine safely is impaired due to mental and/or physical illness affecting competency, as more particularly alleged in paragraphs 26 through 28, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

FIRST CAUSE FOR DISCIPLINE
(Gross Negligence)

30. Respondent has subjected his Physician's and Surgeon's Certificate No. G29331 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patients J.P. and E.R., as more particularly alleged in paragraphs 13 through 25, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

31. Respondent committed gross negligence in his care and treatment of Patients J.P. and E.R., which included, but were not limited to, the following:

a. Respondent failed to complete in-person evaluations and physical examinations of Patients J.P. and E.R. prior to issuing medical marijuana recommendations;

b. Respondent failed to provide Patients J.P. and E.R. with any instructions on monitoring symptoms or any follow-up information;

c. Respondent issued medical marijuana recommendations for more than a year without requesting Patients J.P. and E.R. to return annually;

d. Respondent failed to establish patient-physician relationships with Patients J.P. and E.R., as evidenced by his failure to meet with the patients;

e. Respondent's medical records for Patients J.P. and E.R. fail to document the basic elements of a history, physical, diagnosis, rational of how the diagnosis was reached, treatment plan, or any evidence of informed decision making; and

f. Respondent falsified medical procedures that were not done during the patients' office visits.

SECOND CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

32. Respondent has further subjected his Physician's and Surgeon's Certificate No. G29331 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed gross negligence in his care and treatment of Patients J.P. and E.R., as more particularly alleged in paragraphs 13 through 25 and 31, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE
(Recommendation without Examination or Medical Indication)

33. Respondent has further subjected his Physician's and Surgeon's Certificate No. G29331 to disciplinary action under sections 2227 and 2234, as defined by section 2525.3, of the Code, in that he recommended medical cannabis to Patients J.P. and E.R. without an appropriate prior examination and/or medical indication, as more particularly alleged in paragraphs 13 through 25, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE
(Dishonesty or Corruption)

34. Respondent has further subjected his Physician's and Surgeon's Certificate No. G29331 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), of the Code, in that he has engaged in an act or acts of dishonesty or corruption substantially related to the qualifications, functions, or duties of a physician, when he, among other things, (1) executed the Physician's Statement & Recommendation for Patients J.P. and E.R. attesting that he had examined and evaluated the patients and they qualified for medical marijuana recommendations, as more particularly alleged in paragraphs 13 through 25, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

///

///

///

FIFTH CAUSE FOR DISCIPLINE
(False Representations)

35. Respondent has further subjected his Physician's and Surgeon's Certificate No. G29331 to disciplinary action under sections 2227 and 2234, as defined by section 2261, of the Code, in that he made and/or signed documents related to the practice of medicine that falsely represented the existence or nonexistence of facts related to his care and treatment of Patients J.P. and E.R., as more particularly alleged hereinafter:

a. Paragraphs 13 through 25 and 34, above, are hereby incorporated by reference and re-alleged as if fully set forth herein; and

b. Respondent knowingly made and/or signed documents related to the practice of medicine that falsely represented the existence or nonexistence of facts when he, among other things, (1) executed the Physician's Statement & Recommendation for Patients J.P. and E.R. attesting that both patients qualified for the use of medical marijuana when, in truth and fact, they did not; and (2) documented both patients' blood pressures and pulses when they had either not been measured or the values were modified; (3) documented that Patients J.P. and E.R. had been counseled on the protocol for back pain, referred for a prostate gland evaluation and PSA blood testing, when in fact, they were not; and (4) documented that Patient J.P. had been informed about Smokers Anonymous when, in fact, he had not.

SIXTH CAUSE FOR DISCIPLINE
(Modifying Medical Records or Creating False Medical Records with Fraudulent Intent)

36. Respondent has further subjected his Physician's and Surgeon's Certificate No. G29331 to disciplinary action under sections 2227 and 2234, as defined by section 2262, of the Code, in that he modified the medical records of Patients J.P. and E.R. with fraudulent intent, as more particularly alleged in paragraphs 13 through 25, 34, and 35, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

///

///

///

SEVENTH CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate or Accurate Records)

37. Respondent has further subjected his Physician's and Surgeon's Certificate No. G29331 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records for Patients J.P. and E.R., as more particularly alleged in paragraphs 13 through 25 and 30 through and 36, above, which are hereby incorporated by reference and re-alleged 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. G29331, issued to Respondent Richard Bruce Levin, M.D.;
2. Revoking, suspending or denying approval of Respondent Richard Bruce Levin, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Richard Bruce Levin, 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:
February 15, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SD2019700355
71745004.docx