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

In the Matter of the Accusation Against:	)	
Justin Simon, M.D.	)	**Case No. 800-2017-039063**
Physician's and Surgeon's Certificate No. A 15207	)	
Respondent	)	

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 30, 2019.

IT IS SO ORDERED July 23, 2019.

MEDICAL BOARD OF CALIFORNIA

By: Kimberly Kirchmeyer
Kimberly Kirchmeyer
Executive Director

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **JUSTIN SIMON, M.D.** 3001 Dana Street Berkeley, CA 94705 Physician's and Surgeon's Certificate No. A 15207 Respondent.	Case No. 800-2017-039063 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Jane Zack Simon, Supervising Deputy Attorney General.

2. Justin Simon, M.D. (Respondent) is represented in this proceeding by Joseph S. Picchi of Galloway Lucchese Everson & Picchi, 2300 Contra Costa Blvd. Suite 350, Pleasant Hill, CA 94523.

3. On June 22, 1953, the Board issued Physician's and Surgeon's Certificate No. A 15207 to Justin Simon, M.D. The Physician's and Surgeon's Certificate expired on March 31, 2019, and has not been renewed.

JURISDICTION

4. Accusation No. 800-2017-039063 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent. A copy of Accusation No. 800-2017-039063 is attached as Exhibit A.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-039063. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2017-039063, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline.

Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 15207, issued to Respondent Justin Simon, M.D., is surrendered and accepted by the Board.

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

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

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2017-039063 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No.800-2017-039063 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Joseph S. Picchi. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: July 7, 2019.

JUSTIN SIMON, M.D.
Respondent

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

DATED: July 8, 2019

JOSEPH S. PICCHI
Galloway Lucchese Everson & Picchi
Attorneys for Respondent

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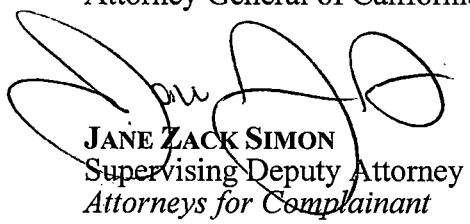
ENDORSEMENT

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

Dated: 7/29/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California



JANE ZACK SIMON
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-039063

XAVIER BECERRA
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 20 2019
BY Sara Pasion ANALYST

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

In the Matter of the Accusation Against:	Case No. 800-2017-039063
JUSTIN SIMON, M.D. 3001 Dana Street Berkeley, CA 94705 Physician's and Surgeon's Certificate No. A 15207, Respondent.	**ACCUSATION**

Complainant alleges:

PARTIES

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

2. On June 22, 1953, the Medical Board issued Physician's and Surgeon's Certificate Number A 15207 to Justin Simon, M.D. (Respondent). The Physician's and Surgeon's Certificate is delinquent, having expired on March 31, 2019.

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 unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, provides, in pertinent part, that the Board shall take action against any licensee who is charged with unprofessional conduct. Unprofessional conduct includes, but is not limited to:

(b) Gross negligence.

(c) Repeated negligent acts.

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence, Repeated Negligent Acts, Failure to Maintain Adequate Records)

Patients #1, #2, #3

7. Respondent, a psychiatrist, treated Patient #1 from 2017-2018. Over the course of treatment, Respondent regularly prescribed a benzodiazepine, a controlled substance for what he noted to be "Generalized Anxiety disorder with occasional panic, depression + perhaps residual PTSD." Respondent failed to document a basis for his diagnosis, or that he conducted a full evaluation of the patient before prescribing. Respondent's cursory medical record was difficult to review due to illegibility and his use of unconventional abbreviations. The record did not document an adequate patient evaluation and assessment, that informed consent was provided to Patient #1, or the basis for Respondent's diagnosis. No treatment plan was articulated. Respondent also failed to coordinate care with other providers, or to take steps to determine whether Patient #1 was receiving prescriptions from other sources. In fact, other physicians were prescribing benzodiazepines and some opioids at the same time.

8. Respondent treated Patient #2 from 2014-2016. Respondent regularly prescribed controlled substances, including stimulants and benzodiazepines to treat what was noted to be a

generalized anxiety disorder, and later, Attention Deficit Hyperactivity Disorder. Respondent failed to document a basis for either diagnosis, or that he conducted an adequate evaluation of the patient to support the prescriptions issued. Respondent's cursory medical record was difficult to review due to illegibility and his use of unconventional abbreviations. The record did not document an adequate patient evaluation and assessment, that informed consent was provided to Patient #2, or the basis for Respondent's diagnosis. Respondent also failed to coordinate care with other providers, or to take steps to determine whether Patient #2 was receiving prescriptions from other sources. In fact, other physicians were prescribing benzodiazepines and opioids at the same time.

9. Respondent treated Patient #3 from 2015 -2018. Respondent initially diagnosed the patient with Attention Deficit Hyperactivity Disorder based on a full clinical assessment, and appropriately treated the patient with stimulants. Subsequently, Respondent increased the dosage of stimulant to a level above the FDA approved dose, without a documented rationale or indication. Respondent also prescribed a benzodiazepine and sleep medication without noting a basis for a diagnosis to support the prescribing, and without apparent consideration of discussion with the patient of the risk of the combined use of the prescribed medications. Respondent's cursory medical record was difficult to review due to illegibility and his use of unconventional abbreviations. The record did not document an adequate patient evaluation and assessment of an anxiety or sleep disorder, that informed consent was provided to Patient #3 for prescribing multiple medications, or the rationale for prescribing in excess of recommended dosages.

10. Respondent subject to disciplinary action for unprofessional conduct under section 2234, and/or 2234(b) and/or 2234(c) in that Respondent was grossly negligent and/or committed repeated acts of negligence in his care and treatment of Patient #1, Patient #2 and Patient #3.

11. Respondent is subject to disciplinary action for unprofessional conduct under section 2266 of the code in that he failed to maintain adequate and accurate medical records for Patient #1, Patient #2 and Patient #3.

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 15207, issued to Justin Simon, M.D.;

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

3. Ordering Justin Simon, 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: June 20, 2019

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

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