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

In the Matter of the Accusation Against:	)	
Jonathon Harry Serebrin, M.D.	)	**Case No. 800-2017-030672**
Physician's and Surgeon's Certificate No. G 36895	)	
Respondent	)	

DECISION

The attached Stipulated Settlement and Disciplinary 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 APR 10 2020

IT IS SO ORDERED MAR 11 2020

MEDICAL BOARD OF CALIFORNIA

By: _____
Kristina D. Lawson, J.D., Chair
Panel B

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
PEGGIE BRADFORD TARWATER
Deputy Attorney General
State Bar No. 169127
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6448
Facsimile: (916) 731-2117
E-mail: Peggie.Tarwater@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against: JONATHON HARRY SEREBRIN, M.D. 1628 Cravens Avenue Torrance, California 90501 Physician's and Surgeon's Certificate G 36895, Respondent.	Case No. 800-2017-030672 OAH No. 2019060258 **STIPULATED SETTLEMENT AND DISCIPLINARY 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. Christine J. Lally (Complainant) is the Interim 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 Peggie Bradford Tarwater, Deputy Attorney General.

2. Respondent Jonathon Harry Serebrin, M.D. (Respondent) is represented in this proceeding by attorney Derek F. O'Reilly-Jones, whose address is 355 South Grand Avenue,

Suite 1750, Los Angeles, California 90071.

3. On June 26, 1978, the Board issued Physician's and Surgeon's Certificate No. G 36895 to Jonathon Harry Serebrin, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-030672, and will expire on January 31, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-030672 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 5, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-030672 is attached as Exhibit A.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-030672. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2017-030672, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. 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 Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline, and he agrees to be bound by the Board's terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, 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 Settlement 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.

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

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

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DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED THAT Physician and Surgeon's Certificate No. G 36895, issued to Respondent Jonathan Harry Serebrin, M.D., is publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a), subparagraph (4). This Public Reprimand, which is issued in connection with Accusation No. 800-2017-030672, is as follows:

"On January 14, 2017, you provided Patient 1 with a marijuana recommendation without conducting and/or documenting an appropriate examination, justifying the marijuana recommendation with supporting documentation, or coordinating care with Patient 1's other treating physicians."

1. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Derek F. O'Reilly-Jones. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 01.06.2020

JONATHON HARRY SEREBRIN, M.D.
Respondent

I have read and fully discussed with Respondent Jonathon Harry Serebrin, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 01/06/2020

DEREK F. O'REILLY-JONES
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 1/9/2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

PEGGIE BRADFORD TARWATER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-030672

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
PEGGIE BRADFORD TARWATER
Deputy Attorney General
State Bar No. 169127
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 269-6448
Facsimile: (213) 897-9395
E-mail: Peggie.Tarwater@doj.ca.gov
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO April 3 2019
BY Sara Fasion ANALYST

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

In the Matter of the Accusation Against: JONATHON HARRY SEREBRIN, M.D. 1628 Cravens Avenue Torrance, California 90501 Physician's and Surgeon's Certificate G 36895, Respondent.	Case No. 800-2017-030672 **A C C U S A T I O N**

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 (Board).

2. On June 26, 1978, the Board issued Physician's and Surgeon's Certificate Number G 36895 to Jonathon Harry Serebrin, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2020, unless renewed.

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JURISDICTION

3. This Accusation is brought 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 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, states, in pertinent part:

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

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

". . . .

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

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

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

". . . .

". . . .

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

". . . .

"...."

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."

7. Health and Safety Code section 11362.5 provides as follows:

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

"(b)(l) 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 care-givers 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 care-giver" 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."

8. Health and Safety Code section 11362.7, subdivision (a) provides that "'Attending physician' means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate."

9. Health and Safety Code section 11362.7, subdivision (h) provides that "'Serious medical condition' means all of the following medical conditions: (1) Acquired immune deficiency syndrome (AIDS); (2) Anorexia.; (3) Arthritis; (4) Cachexia; (5) Cancer; (6) Chronic pain; (7) Glaucoma; (8) Migraine; (9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis; (10) Seizures, including, but not limited to, seizures associated with epilepsy; (11) Severe nausea; (12) Any other chronic or persistent medical symptom that either: (A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336); (B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health."

10. Section 2525.2 of the Code provides:

"An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California, the California Board of Podiatric Medicine, or the Osteopathic Medical Board of California shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code."

11. Pursuant to section 2525.3 of the Code, "[r]ecommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct."

12. Pursuant to section 2266 of the Code, "[t]he 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

(Repeated Negligent Acts)

13. Respondent is subject to disciplinary action under section 2234, subdivision (c) of the Code in that he committed repeated negligent acts in the care and treatment of Patient 1.[1] The circumstances are as follows:

14. On January 14, 2017, Patient 1, who had turned 18 years of age the prior day, presented to Respondent for a marijuana recommendation evaluation.

15. In his intake paperwork, Patient 1 indicated he suffered from anxiety, insomnia, pain, and anorexia. He indicated a medical history of attention deficit hyperactive disorder (ADHD) for which he took Focalin, a stimulant medication used for the treatment of ADHD.

16. Respondent's notes of physical examination indicate a general appearance within normal limits. Also marked as within normal limits are the neck, chest, cardio, abdomen, and thyroid. Knee jerks were noted as normal and motor strength was noted as normal. Pulse was recorded at 114 beats per minute. The patient was not weighed. Respondent did not conduct a "formal" mental status exam.

17. Respondent's assessment of Patient 1 indicates anorexia, anxiety, chronic pain, ADHD, and chronic back pain.

18. Respondent did not obtain a release for the past medical records from the patient nor did he attempt to obtain the records. He did not speak with any of the patient's other physicians.

[1] The identity of Patient 1 is not disclosed in the Accusation to protect the patient's privacy, but it has been provided to Respondent.

19. Respondent provided Patient 1 with a one-year recommendation for medical marijuana. The patient was asked to return in two months.

20. The standard of care in recommending marijuana requires taking a history and conducting a good faith medical examination of the patient. For patients with a history of a psychiatric condition, such as ADHD or anxiety, obtaining a psychiatric history and performing a mental status examination are required.

21. Respondent was negligent in failing to obtain an appropriate history and in failing to conduct an appropriate examination. Respondent checked boxes to signify "within normal limits" but did not provide details of what clinical information was obtained or analyzed. He did not address the high pulse of 114 beats per minute. He failed to complete a mental status examination prior to recommending marijuana for a patient with a history of ADHD and anxiety.

22. The standard of care requires that a physician's recommendation for marijuana be supported by documentation justifying the recommendation.

23. Respondent was negligent in recommending medical marijuana for anorexia, chronic pain, anxiety, and ADHD without documentation as to how the conditions impacted the patient's quality of life and affected his day-to-day functioning to support the recommendation.

24. The standard of care requires coordination of care for a patient with an underlying psychiatric condition.

25. Respondent was negligent in failing to coordinate care with the patient's other treating physicians.

26. Respondent committed repeated negligent acts in the care and treatment of Patient 1, for which physician's and surgeon's certificate is subject to discipline.

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SECOND CAUSE FOR DISCIPLINE

(Prescribing Without an Appropriate Examination and Medical Indication)

27. By reason of the facts set forth above in the First Cause for Discipline, Respondent is subject to disciplinary action under section 2525.3 of the Code in that he recommended medical marijuana without an appropriate prior examination and medical indication.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

28. By reasons of the facts set forth above in the First Cause for Discipline, Respondent Jonathon Harry Serebrin, M.D. is subject to disciplinary action under section 2266 of the Code in that he failed to maintain adequate and accurate medical records.

DISCIPLINARY CONSIDERATIONS

29. To determine the degree of discipline, if any, to be imposed on Respondent's physician's and surgeon's certificate, Complainant alleges that on or about February 1, 2013, in a prior disciplinary action entitled *In the Matter of the Reprimand Against Jonathon Harry Serebrin, M.D.*, Medical Board Case Number 22-2011-217643, Respondent's license was publicly reprimanded for engaging in employment at a medical facility established for the purpose of providing medical services but not owned by a licensed physician and surgeon. That decision is now final and is incorporated by reference as if fully set forth herein.

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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 G 36895, issued to Jonathon Harry Serebrin, M.D.;

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

3. If placed on probation, ordering Jonathon Harry Serebrin, M.D. to pay the Board the costs of probation monitoring; and

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

DATED: April 3, 2019

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

Complainant

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