

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

**In the Matter of the Accusation Against:** )  
 )  
**DAVID E. SOSIN, M.D.** ) **Case No. 8002013000597**  
 )  
**Physician's and Surgeon's** )  
**Certificate No. G 13099** )  
 )  
**Respondent.** )  
\_\_\_\_\_ )


**DECISION AND ORDER**

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

**This Decision shall become effective at 5:00 p.m. on December 2, 2016.**

**IT IS SO ORDERED November 3, 2016.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
**Michelle Bholat, M.D., Chair**  
**Panel B**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 TAN N. TRAN  
Deputy Attorney General  
4 State Bar No. 197775  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
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*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 800-2013-000597

11  
12 **David E. Sosin, M.D.**  
13 **13362 Newport Avenue, Suite A**  
**Tustin, CA 92780**

OAH No. 2015120974

14 **Physician's and Surgeon's Certificate**  
15 **No. G13099,**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California. She brought this action solely in her official capacity and is represented in this  
23 matter by Kamala D. Harris, Attorney General of the State of California, by Tan N. Tran, Deputy  
24 Attorney General.

25 2. Respondent DAVID E. SOSIN, M.D. ("Respondent") is represented in this  
26 proceeding by attorney Scott A. Martin, whose address is: PIVO, HALBREICH, MARTIN &  
27 WILSON, LLP, 525 North Cabrillo Park Drive, Santa Ana, CA 92701.

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1 No. 800-2013-000597, and that he has thereby subjected his Physician's and Surgeon's Certificate  
2 No. G13099 to disciplinary action.

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

6 RESERVATION

7 11. The admissions made by Respondent herein are only for the purposes of this  
8 proceeding, or any other proceedings in which the Medical Board of California or other  
9 professional licensing agency is involved, and shall not be admissible in any other criminal or  
10 civil proceeding.

11 CONTINGENCY

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

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

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

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1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G13099 issued  
3 to David E. Sosin, M.D. (Respondent) is revoked. However, the revocation is stayed and  
4 Respondent is placed on probation for five (5) years on the following terms and conditions.

5 1. CONTROLLED SUBSTANCES - PARTIAL RESTRICTION. During the first  
6 three years of probation, for any prescription for controlled substances as listed in Schedule(s) II  
7 and III of the California Uniform Controlled Substances Act, Respondent shall, within five  
8 business days after issuing said prescription(s), forward said patient(s)' medical record to the  
9 Board or its Designee. Said medical record(s) shall show all the following: 1) the name and  
10 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;  
11 and 4) the indications and diagnosis for which the controlled substances were furnished.

12 Although Respondent has never previously prescribed or recommended medical  
13 marijuana for any patient, it is nonetheless ordered that Respondent shall not issue an oral or  
14 written recommendation or approval to a patient or a patient's primary caregiver for the  
15 possession or cultivation of marijuana for the personal medical purposes of the patient within the  
16 meaning of Health and Safety Code section 11362.5. If Respondent forms the medical opinion,  
17 after an appropriate prior examination and medical indication, that a patient's medical condition  
18 may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the  
19 patient to another physician who, following an appropriate prior examination and medical  
20 indication, may independently issue a medically appropriate recommendation or approval for the  
21 possession or cultivation of marijuana for the personal medical purposes of the patient within the  
22 meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the  
23 patient or the patient's primary caregiver that Respondent is prohibited from issuing a  
24 recommendation or approval for the possession or cultivation of marijuana for the personal  
25 medical purposes of the patient and that the patient or the patient's primary caregiver may not  
26 rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical  
27 purposes of the patient. Respondent shall fully document in the patient's chart that the patient or  
28 the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent

1 from providing the patient or the patient's primary caregiver information about the possible  
2 medical benefits resulting from the use of marijuana.

3 2. CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO  
4 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled  
5 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any  
6 recommendation or approval which enables a patient or patient's primary caregiver to possess or  
7 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health  
8 and Safety Code section 11362.5, during probation, showing all the following: 1) the name and  
9 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;  
10 and 4) the indications and diagnosis for which the controlled substances were furnished.

11 Respondent shall keep these records in a separate file or ledger, in chronological order. All  
12 records and any inventories of controlled substances shall be available for immediate inspection  
13 and copying on the premises by the Board or its designee at all times during business hours and  
14 shall be retained for the entire term of probation.

15 3. EDUCATION COURSE. Within 60 calendar days of the effective date of this  
16 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
17 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
18 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
19 correcting any areas of deficient practice or knowledge and shall be Category I certified. The  
20 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
21 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
22 completion of each course, the Board or its designee may administer an examination to test  
23 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65  
24 hours of CME of which 40 hours were in satisfaction of this condition.

25 4. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective  
26 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the  
27 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,  
28 University of California, San Diego School of Medicine (Program), approved in advance by the

1 Board or its designee. Respondent shall provide the program with any information and documents  
2 that the Program may deem pertinent. Respondent shall participate in and successfully complete  
3 the classroom component of the course not later than six (6) months after Respondent's initial  
4 enrollment. Respondent shall successfully complete any other component of the course within  
5 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense  
6 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
7 licensure.

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

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

16 5. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective  
17 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to  
18 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education  
19 Program, University of California, San Diego School of Medicine (Program), approved in  
20 advance by the Board or its designee. Respondent shall provide the program with any information  
21 and documents that the Program may deem pertinent. Respondent shall participate in and  
22 successfully complete the classroom component of the course not later than six (6) months after  
23 Respondent's initial enrollment. Respondent shall successfully complete any other component of  
24 the course within one (1) year of enrollment. The medical record keeping course shall be at  
25 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)  
26 requirements for renewal of licensure.

27 A medical record keeping course taken after the acts that gave rise to the charges in the  
28 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

1 or its designee, be accepted towards the fulfillment of this condition if the course would have  
2 been approved by the Board or its designee had the course been taken after the effective date of  
3 this Decision.

4 Respondent shall submit a certification of successful completion to the Board or its  
5 designee not later than 15 calendar days after successfully completing the course, or not later than  
6 15 calendar days after the effective date of the Decision, whichever is later.

7 6. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of  
8 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
9 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.

10 Respondent shall participate in and successfully complete that program. Respondent shall  
11 provide any information and documents that the program may deem pertinent. Respondent shall  
12 successfully complete the classroom component of the program not later than six (6) months after  
13 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
14 time specified by the program, but no later than one (1) year after attending the classroom  
15 component. The professionalism program shall be at Respondent's expense and shall be in  
16 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

25 7. CLINICAL TRAINING PROGRAM. Within 60 calendar days of the effective date  
26 of this Decision, Respondent shall enroll in a clinical training or educational program equivalent  
27 to the Physician Assessment and Clinical Education Program (PACE) offered at the University of  
28 California - San Diego School of Medicine ("Program"). Respondent shall successfully complete



1 the Program not later than six (6) months after Respondent's initial enrollment unless the Board  
2 or its designee agrees in writing to an extension of that time.

3 The Program shall consist of a Comprehensive Assessment program comprised of a two-  
4 day assessment of Respondent's physical and mental health; basic clinical and communication  
5 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to  
6 Respondent's area of practice in which Respondent was alleged to be deficient, and at minimum,  
7 a 40 hour program of clinical education in the area of practice in which Respondent was alleged  
8 to be deficient and which takes into account data obtained from the assessment, Decision(s),  
9 Accusation(s), and any other information that the Board or its designee deems relevant.  
10 Respondent shall pay all expenses associated with the clinical training program.

11 Based on Respondent's performance and test results in the assessment and clinical  
12 education, the Program will advise the Board or its designee of its recommendation(s) for the  
13 scope and length of any additional educational or clinical training, treatment for any medical  
14 condition, treatment for any psychological condition, or anything else affecting Respondent's  
15 practice of medicine. Respondent shall comply with Program recommendations.

16 At the completion of any additional educational or clinical training, Respondent shall  
17 submit to and pass an examination. Determination as to whether Respondent successfully  
18 completed the examination or successfully completed the program is solely within the program's  
19 jurisdiction.

20 If Respondent fails to enroll, participate in, or successfully complete the clinical training  
21 program within the designated time period, Respondent shall receive a notification from the  
22 Board or its designee to cease the practice of medicine within three (3) calendar days after being  
23 so notified. The Respondent shall not resume the practice of medicine until enrollment or  
24 participation in the outstanding portions of the clinical training program have been completed. If  
25 the Respondent did not successfully complete the clinical training program, the Respondent shall  
26 not resume the practice of medicine until a final decision has been rendered on the accusation  
27 and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of  
28 the probationary time period.

1           8.    MONITORING - PRACTICE. Within 30 calendar days of the effective date of this  
2 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice  
3 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose  
4 licenses are valid and in good standing, and who are preferably American Board of Medical  
5 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
6 relationship with Respondent, or other relationship that could reasonably be expected to  
7 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
8 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
9 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

10           The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
11 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the  
12 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
13 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
14 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
15 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
16 signed statement for approval by the Board or its designee.

17           Within 60 calendar days of the effective date of this Decision, and continuing throughout  
18 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
19 make all records available for immediate inspection and copying on the premises by the monitor  
20 at all times during business hours and shall retain the records for the entire term of probation.

21           If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
22 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
23 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
24 shall cease the practice of medicine until a monitor is approved to provide monitoring  
25 responsibility.

26           The monitor(s) shall submit a quarterly written report to the Board or its designee which  
27 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
28 are within the standards of practice of medicine, and whether Respondent is practicing medicine

1 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the  
2 quarterly written reports to the Board or its designee within 10 calendar days after the end of the  
3 preceding quarter.

4 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
5 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
6 name and qualifications of a replacement monitor who will be assuming that responsibility within  
7 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
8 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
9 notification from the Board or its designee to cease the practice of medicine within three (3)  
10 calendar days after being so notified Respondent shall cease the practice of medicine until a  
11 replacement monitor is approved and assumes monitoring responsibility.

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

18 **STANDARD CONDITIONS**

19 9. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
20 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
21 Chief Executive Officer at every hospital where privileges or membership are extended to  
22 Respondent, at any other facility where Respondent engages in the practice of medicine,  
23 including all physician and locum tenens registries or other similar agencies, and to the Chief  
24 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
25 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
26 calendar days.

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

28 10. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is

1 prohibited from supervising physician assistants.

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

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

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

10 13. GENERAL PROBATION REQUIREMENTS.

11 Compliance with Probation Unit

12 Respondent shall comply with the Board's probation unit and all terms and conditions of  
13 this Decision.

14 Address Changes

15 Respondent shall, at all times, keep the Board informed of Respondent's business and  
16 residence addresses, email address (if available), and telephone number. Changes of such  
17 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
18 circumstances shall a post office box serve as an address of record, except as allowed by Business  
19 and Professions Code section 2021(b).

20 Place of Practice

21 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
22 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
23 facility.

24 License Renewal

25 Respondent shall maintain a current and renewed California physician's and surgeon's  
26 license.

27 Travel or Residence Outside California

28 Respondent shall immediately inform the Board or its designee, in writing, of travel to any

1 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
2 (30) calendar days.

3 In the event Respondent should leave the State of California to reside or to practice  
4 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
5 departure and return.

6 14. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
7 available in person upon request for interviews either at Respondent's place of business or at the  
8 probation unit office, with or without prior notice throughout the term of probation.

9 15. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
10 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
11 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
12 defined as any period of time Respondent is not practicing medicine in California as defined in  
13 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
14 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
15 time spent in an intensive training program which has been approved by the Board or its designee  
16 shall not be considered non-practice. Practicing medicine in another state of the United States or  
17 Federal jurisdiction while on probation with the medical licensing authority of that state or  
18 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
19 not be considered as a period of non-practice.

20 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
21 months, Respondent shall successfully complete a clinical training program that meets the criteria  
22 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and  
23 Disciplinary Guidelines" prior to resuming the practice of medicine.

24 Respondent's period of non-practice while on probation shall not exceed two (2) years.

25 Periods of non-practice will not apply to the reduction of the probationary term.

26 Periods of non-practice will relieve Respondent of the responsibility to comply with the  
27 probationary terms and conditions with the exception of this condition and the following terms  
28 and conditions of probation: Obey All Laws; and General Probation Requirements.

1           16. COMPLETION OF PROBATION. Respondent shall comply with all financial  
2 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
3 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
4 be fully restored.

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

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

22           19. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
23 with probation monitoring each and every year of probation, as designated by the Board, which  
24 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
25 California and delivered to the Board or its designee no later than January 31 of each calendar  
26 year.

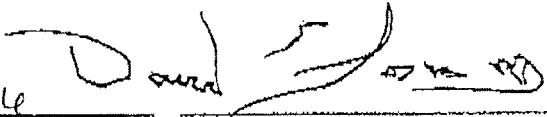
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Scott A. Martin. I understand the stipulation and the effect it will  
4 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
6 Decision and Order of the Medical Board of California.

7  
8 DATED: 6/6/14

  
9 DAVID E. SOSIN, M.D.  
Respondent

10 I have read and fully discussed with Respondent DAVID E. SOSIN, M.D. the terms and  
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
12 I approve its form and content.

13 DATED: \_\_\_\_\_

14 SCOTT A. MARTIN  
Attorney for Respondent

15  
16 ENDORSEMENT

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

19 Dated:

Respectfully submitted,

20  
21 KAMALA D. HARRIS  
Attorney General of California  
22 JUDITH T. ALVARADO  
Supervising Deputy Attorney General

23  
24 TANN. TRAN  
25 Deputy Attorney General  
Attorneys for Complainant  
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Scott A. Martin. 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: \_\_\_\_\_

\_\_\_\_\_  
DAVID E. SOSIN, M.D.  
*Respondent*

I have read and fully discussed with Respondent DAVID E. SOSIN, 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: \_\_\_\_\_

June 6, 2016       
SCOTT A. MARTIN  
*Attorney for Respondent*

ENDORSEMENT


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

Dated: \_\_\_\_\_

6/7/16

Respectfully submitted,

KAVIYALAD, HARRIS  
Attorney General of California  
JUDITH A. VANDU  
Supervising Deputy Attorney General

  
TAN N. TRAN  
Deputy Attorney General  
*Attorneys for Complainant*



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**Exhibit A**

**Accusation No. 800-2013-000597**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO July 1 20 15  
BY R. FIRDAYS ANALYST

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 800-2013-000597

12 **David E. Sosin, M.D.**  
13 **13362 Newport Avenue, Suite A**  
**Tustin, CA 92780**

**A C C U S A T I O N**

14 **Physician's and Surgeon's Certificate**  
15 **No. G13099,**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about April 19, 1967, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number G13099 to David E. Sosin, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on October 31, 2015, unless renewed.

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1 JURISDICTION

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

4 4. Section 2004 of the Code states:

5 "The board shall have the responsibility for the following:

6 "(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice  
7 Act.

8 "(b) The administration and hearing of disciplinary actions.

9 "(c) Carrying out disciplinary actions appropriate to findings made by a panel or an  
10 administrative law judge.

11 "(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of  
12 disciplinary actions.

13 "(e) Reviewing the quality of medical practice carried out by physician and surgeon  
14 certificate holders under the jurisdiction of the board.

15 "(f) Approving undergraduate and graduate medical education programs.

16 "(g) Approving clinical clerkship and special programs and hospitals for the programs in  
17 subdivision (f).

18 "(h) Issuing licenses and certificates under the board's jurisdiction.

19 "(i) Administering the board's continuing medical education program."

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

24 6. Section 2234 of the Code, states:

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

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

3           "(b) Gross negligence.

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

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

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

14           "(d) Incompetence.

15           "(e) The commission of any act involving dishonesty or corruption which is substantially  
16 related to the qualifications, functions, or duties of a physician and surgeon.

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

18           "(g) The practice of medicine from this state into another state or country without meeting  
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
20 apply to this subdivision. This subdivision shall become operative upon the implementation of  
21 the proposed registration program described in Section 2052.5.

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

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1           7.     Section 2242 of the Code states:

2           "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022  
3 without an appropriate prior examination and a medical indication, constitutes unprofessional  
4 conduct.

5           "(b) No licensee shall be found to have committed unprofessional conduct within the  
6 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of  
7 the following applies:

8           "(1) The licensee was a designated physician and surgeon or podiatrist serving in the  
9 absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs  
10 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return  
11 of his or her practitioner, but in any case no longer than 72 hours.

12           "(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed  
13 vocational nurse in an inpatient facility, and if both of the following conditions exist:

14           "(A) The practitioner had consulted with the registered nurse or licensed vocational nurse  
15 who had reviewed the patient's records.

16           "(B) The practitioner was designated as the practitioner to serve in the absence of the  
17 patient's physician and surgeon or podiatrist, as the case may be.

18           "(3) The licensee was a designated practitioner serving in the absence of the patient's  
19 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized  
20 the patient's records and ordered the renewal of a medically indicated prescription for an amount  
21 not exceeding the original prescription in strength or amount or for more than one refill.

22           "(4) The licensee was acting in accordance with Section 120582 of the Health and Safety  
23 Code."

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

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1           9.     Section 725 of the Code states:

2           "(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering  
3 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated  
4 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of  
5 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,  
6 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language  
7 pathologist, or audiologist.

8           "(b) Any person who engages in repeated acts of clearly excessive prescribing or  
9 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of  
10 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by  
11 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and  
12 imprisonment.

13           "(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or  
14 administering dangerous drugs or prescription controlled substances shall not be subject to  
15 disciplinary action or prosecution under this section.

16           "(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section  
17 for treating intractable pain in compliance with Section 2241.5."

18           10.    Section 2052 of the Code states:

19           "(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who  
20 advertises or holds himself or herself out as practicing, any system or mode of treating the sick or  
21 afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment,  
22 blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition  
23 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended  
24 certificate as provided in this chapter [Chapter 5, the Medical Practice Act], or without being  
25 authorized to perform the act pursuant to a certificate obtained in accordance with some other  
26 provision of law, is guilty of a public offense, punishable by a fine not exceeding ten thousand  
27 dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal  
28 Code, by imprisonment in a county jail not exceeding one year, or by both the fine and either

1 imprisonment.

2 "(b) Any person who conspires with or aids or abets another to commit any act described in  
3 subdivision (a) is guilty of a public offense, subject to the punishment described in that  
4 subdivision.

5 "(c) The remedy provided in this section shall not preclude any other remedy provided by  
6 law."

7 11. Section 2264 of the Code states:

8 "The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person  
9 or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any  
10 other mode of treating the sick or afflicted which requires a license to practice constitutes  
11 unprofessional conduct."

12 12. California Code of Regulations, title 16, section 1360 states:

13 "For the purposes of denial, suspension or revocation of a license, certificate or permit  
14 pursuant to Division 1.5 (commencing with Section 475) of the [C]ode, a crime or act shall be  
15 considered to be substantially related to the qualifications, functions or duties of a person holding  
16 a license, certificate or permit under the Medical Practice Act if to a substantial degree it  
17 evidences present or potential unfitness of a person holding a license, certificate or permit to  
18 perform the functions authorized by the license, certificate or permit in a manner consistent with  
19 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the  
20 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
21 violation of, or conspiring to violate any provision of the Medical Practice Act."

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1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 13. Respondent is subject to disciplinary action under section 2234, subdivision (b), of  
4 the Code for the commission of acts or omissions involving gross negligence in the care and  
5 treatment of patient M.C. (“patient” or “M.C.”)<sup>1</sup> The circumstances are as follows:

6 14. Respondent, a psychiatrist, began treating the patient on or about December 3, 2009.  
7 After this initial psychiatric evaluation, Respondent diagnosed the patient with ADHD (Attention  
8 Deficit Hyperactivity Disorder). During the first year of treatment, Respondent started the patient  
9 on Vyvanse (a long acting pro-drug version of Adderall), and also began to prescribe  
10 dextroamphetamine, Adderall, and Ritalin, which are all stimulants used to treat ADHD.<sup>2</sup>

11 15. As treatment began to progress, the patient revealed his marital problems to  
12 Respondent, and the patient claimed that his wife was an alcoholic with serious behavioral  
13 problems. By 2011, about one year after the patient had started treatment with Respondent, the  
14 patient’s marital issues appeared to become the focus of the treatment. During this time period,  
15 Respondent became aware that the patient had begun medicating his wife, unbeknownst to her, by  
16 placing Lexapro (an antidepressant) in her food.<sup>3</sup>

17 16. Despite learning what the patient was doing, Respondent did not seem to take active  
18 steps to stop this dangerous/illegal behavior by the patient, nor did Respondent immediately cease  
19 treatment of the patient. Instead, Respondent continued to treat the patient until about July 2013,<sup>4</sup>  
20 for almost another two years, not only providing psychiatric evaluation/therapy, but also  
21 prescribing to the patient other drugs such as Crestor (a cholesterol-lowering medication),

22 <sup>1</sup> The patient is identified by initial to protect his privacy.

23 <sup>2</sup> Records indicate that Respondent seemed to leave it up to the patient to modify his  
stimulant regime to a very great extent during this time.

24 <sup>3</sup> Records indicate that Respondent was apprised of this dangerous behavior. There is one  
25 note on November 9, 2011, in which Respondent wrote/warned the patient that it is illegal to  
26 “share meds...” Records of continuing treatment and subsequent discussions with Respondent  
revealed that Respondent may have “collaborated” with the patient to continue this behavior, in  
what may have been an ill-advised attempt to “help” the patient’s wife and to “save” the patient’s  
marriage.

27 <sup>4</sup> Respondent stated that he terminated his treatment of the patient in July of 2013,  
28 primarily because he felt “threatened” by the patient’s wife, not because he felt that his treatment  
of the patient was substandard.

1 Zithromax (an antibiotic), Cialis (a drug used to treat erectile dysfunction), Levitra (also for  
2 erectile dysfunction), Tobridex eye drops, and the like, for non-psychiatric-related conditions.<sup>5</sup>

3 17. The following acts or omissions committed by Respondent in his care and treatment  
4 of patient M.C. constituted an extreme departure from the standard of care:

5 a. Failure to immediately terminate the doctor-patient relationship with M.C., upon  
6 learning that M.C. was putting Lexapro in his wife's food;

7 b. Overprescribing Vyvanse and other drugs without an appropriate prior examination or  
8 medical indication therefor.

9 c. Prescribing multiple stimulants/medications simultaneously, thus putting the patient  
10 in the "driver's seat" by allowing the patient too much latitude to control his medication regime;

11 d. Failure to refer the patient to a general practitioner and/or appropriate specialist for  
12 non-psychiatric conditions and providing medical treatment/advice to the patient that is "beyond  
13 the scope" of a psychiatrist/specialist.<sup>6</sup>

14 18. Respondent's acts and/or omissions as set forth in paragraphs 14 through 17,  
15 inclusive, above, whether proven individually, jointly, or in any combination thereof, constitute  
16 gross negligence pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for  
17 discipline exists.

18 SECOND CAUSE FOR DISCIPLINE

19 (Repeated Negligent Acts )

20 19. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
21 Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code in  
22 that he committed repeated negligent acts in his care of patient M.C.

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26 <sup>5</sup> Respondent's treatment of the patient resembled that of a comprehensive  
practitioner/primary care physician (PCP), rather than a medical specialist.

27 <sup>6</sup> It does not appear that Respondent ever referred the patient to a marriage  
28 counselor/therapist, nor was it clear whether Respondent knew whether or not the patient had a  
PCP.

1 THIRD CAUSE FOR DISCIPLINE

2 (Inadequate Records)

3 20. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
4 Respondent is subject to disciplinary action under section 2266 of the Code, in that Respondent  
5 failed to maintain adequate and accurate records of his care and treatment of patient M.C.

6 FOURTH CAUSE FOR DISCIPLINE

7 (Incompetence)

8 21. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
9 Respondent is subject to disciplinary action under section 2234, subdivision (d), of the Code, in  
10 that Respondent showed incompetence in his care and treatment of patient M.C.

11 FIFTH CAUSE FOR DISCIPLINE

12 (Prescribing Without Exam/Indication)

13 22. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
14 Respondent is subject to disciplinary action under section 2242 of the Code, in that Respondent  
15 prescribed dangerous drugs to patient M.C. without an appropriate prior examination or medical  
16 indication therefor.

17 SIXTH CAUSE FOR DISCIPLINE

18 (Excessive Prescribing)

19 23. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
20 Respondent is subject to disciplinary action under section 725 of the Code, in that Respondent  
21 excessively prescribed dangerous drugs to patient M.C.

22 SEVENTH CAUSE FOR DISCIPLINE

23 (General Unprofessional Conduct)

24 24. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
25 Respondent is subject to disciplinary action under section 2234, of the Code.

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1 EIGHTH CAUSE FOR DISCIPLINE

2 (Aiding and Abetting the Unlicensed Practice of Medicine)

3 25. Respondent is subject to disciplinary action under Code sections 2052, subdivision  
4 (b), 2234, subdivision (a), 2264, and California Code of Regulations, title 16, section 1360 in that  
5 he aided and abetted the unlicensed practice of medicine by patient M.C., a layperson who was  
6 medicating his wife by putting Lexapro in her food.

7 DISCIPLINE CONSIDERATIONS

8 26. To determine the degree of discipline, if any, to be imposed on Respondent,  
9 Complainant alleges that on or about June 14, 1999 (the "1999" Decision), in a prior disciplinary  
10 action entitled *In the Matter of the Accusation Against David E. Sosin, M.D.*, before the Medical  
11 Board of California, Respondent's license was placed on three (3) years probation with terms and  
12 conditions. On February 24, 2012, a Public Letter of Reprimand (PLR) was also issued against  
13 Respondent for overprescribing stimulants to a patient. The 1999 Decision and PLR are now  
14 final and are incorporated by reference as if fully set forth.

15 PRAYER

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

- 18 1. Revoking or suspending Physician's and Surgeon's Certificate Number G13099,  
19 issued to David E. Sosin, M.D.;
- 20 2. Revoking, suspending or denying approval of David E. Sosin, M.D.'s authority to  
21 supervise physician assistants, pursuant to section 3527 of the Code;
- 22 3. Ordering David E. Sosin, M.D., if placed on probation, to pay the Board the costs of  
23 probation monitoring; and

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

DATED: July 1, 2015



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

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