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

In the Matter of the Accusation Against:	)	
FREDERICK LEE JOHNSON M.D.	)	**File No. 8002014005308**
Physician's and Surgeon's Certificate No. A55618	)	
Respondent	)	

DECISION

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand 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 February 9, 2018.

IT IS SO ORDERED January 12, 2018.

MEDICAL BOARD OF CALIFORNIA

By: _____
Ronald H. Lewis, M.D.
Chair, Panel A

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
KEITH C. SHAW
Deputy Attorney General
State Bar No. 227029
455 Golden Gate Avenue, Suite 11000
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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: **FREDERICK LEE JOHNSON, M.D.** P.O. Box 1889 Lakeport, CA 95453 **Physician's and Surgeon's Certificate No. A55618** Respondent.	Case No. 800-2014-005308 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER FOR PUBLIC REPRIMAND**

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 Keith C. Shaw, Deputy Attorney General.

2. Respondent Frederick Lee Johnson, M.D. (Respondent) is represented in this proceeding by attorney Robert W. Hodges Esq., whose address is: 3480 Buskirk Ave., #250 Pleasant Hill, CA 94523.

JURISDICTION

3. On or about February 7, 1996, the Board issued Physician's and Surgeon's Certificate No. A 55618 to Frederick Lee Johnson, M.D. The Physician's and Surgeon's Certificate No. was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-005308, and will expire on November 30, 2017, unless renewed.

4. Accusation No. 800-2014-005308 was filed before the Medical Board of California, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 1, 2017. Respondent filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-005308 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-005308. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

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. 800-2014-005308, 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 imposition of discipline 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 for Public Reprimand 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 for Public Reprimand, 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 Respondent Frederick Lee Johnson, M.D., Physician's and Surgeon's Certificate No. A55618, shall be and hereby is publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This public reprimand is issued in connection with allegations of unprofessional conduct regarding Respondent's treatment of a patient on or about March 22, 2011, as set forth in Accusation No. 800-2016-020761.

B. EDUCATION COURSES

Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than twenty-five (25) hours. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge, and shall focus on anesthesia, including areas of anesthesia protocol and anesthesia medication management, and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Respondent shall participate in and successfully complete the classroom component of the course(s) not later than nine (9) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course(s) within one (1) year of enrollment.

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

If Respondent fails to enroll in or successfully complete the course(s) within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume the practice of medicine until he has completed the required course(s). Failure to enroll in or successfully complete the course(s) within the designated time period shall constitute unprofessional conduct and grounds for further disciplinary action.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reprimand and have fully discussed it with my attorney, Robert W. Hodges Esq. 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 for Public Reprimand voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 11/13/2017

FREDERICK LEE JOHNSON, M.D.
Respondent

I have read and fully discussed with Respondent Frederick Lee Johnson, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Reprimand. I approve its form and content.

DATED: 11/15/2017

ROBERT W. HODGES ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby respectfully submitted for consideration by the Board.

Dated: 11/15/2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

KEITH C. SHAW
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-005308

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 1 2017
BY Robyn Fitzwater ANALYST

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

In the Matter of the Accusation Against: **Frederick Lee Johnson, M.D.** **P.O. Box 1889** **Lakeport, CA 95453** **Physician's and Surgeon's Certificate No. A 55618,** Respondent.	Case No. 800-2014-005308 **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 or about February 7, 1996, the Medical Board issued Physician's and Surgeon's Certificate Number A 55618 to Frederick Lee Johnson, M.D. (Respondent). The Physician's and Surgeon's certificate was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2017, unless renewed.

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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, states:

"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:

"(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) 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."

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence; Negligent Acts)

6. Respondent Frederick Lee Johnson, M.D. is subject to disciplinary action under sections 2234 and 2234, subdivision (b) and (c), of the Code in that Respondent engaged in

unprofessional conduct and was grossly negligent and/or negligent in his care and treatment of Patient[1]. The circumstances are as follows:

7. On or about March 22, 2011, Respondent provided anesthesia for Patient, who was admitted to the hospital with a fractured ankle and scheduled for peripheral orthopaedic surgery. During the time Patient was in the emergency department and thereafter on the hospital ward, she received a large amount of IV Dilaudid[2] for pain control. Patient was morbidly obese. Respondent met with Patient preoperatively and obtained a history. His plan was to perform the procedure using a spinal anesthetic with IV sedation. Respondent ordered drugs to treat gastric emptying and decrease gastric acid secretion, but did not order Bicitra.

8 Respondent administered the spinal anesthesia, which consisted of Lidocaine and Marcaine, to Patient while she was on her medical bed. Patient was then transferred to the operating bed, and was disconnected from her monitoring equipment during that transfer. Then, it was noted that Patient had stopped breathing and was in respiratory arrest. An oxygen mask was applied and chest compressions were initiated. The patient was reconnected to monitors, and had no cardiac rhythm. Atropine and Epinephrine were administered, chest compressions and ventilation continued, and within about a minute, Patient began breathing spontaneously. Patient was intubated and mechanically ventilated.

9. Respondent and the surgeon made the decision to proceed with the planned surgical procedure, although the reasoning behind that decision was not documented in the record. Respondent elected to use a general anesthesia, and started an infusion of propofol (anesthetic), midazolam (sedative), and alfentanil (narcotic/opioid). The propofol/alfentanil infusion was continued throughout the procedure, including after the application of surgical dressings.

10. At the conclusion of surgery, Patient did not wake up, despite being monitored in the Operating Room for nearly one hour after the surgical dressings were applied. Respondent kept Patient intubated, and admitted her to the ICU.

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[1] The patient is identified only as "Patient" to protect her right to privacy. The patient's identity will be revealed to Respondent in discovery.

[2] Dilaudid is a Schedule II controlled substance, and a narcotic analgesic used for relief of pain. One of its side effects is respiratory depression.

11. Respondent is guilty of unprofessional conduct and subject to disciplinary action under sections 2234, and/or 2234(b) and/or 2234(c) of the Code in that Respondent was grossly negligent and/or committed repeated negligent acts including but not limited to the following:

A. For reasons not documented in the record, Respondent elected to proceed with surgery after the Return of Spontaneous Circulation (ROSC), without initiating ROSC protocols for brain protection, including obtaining targeted temperature control.

B. Respondent proceeded to surgery, using a general anesthetic, without changing the thermal blanket setting to cooling temperature.

C. Respondent continued to administer the anesthetic propofol/alfentanil infusion after surgery concluded, while waiting for Patient to wake up, and did not consider administering flumazenil and/or naloxone to reverse the sedative effects of midazolam and alfentanil.

D. While Respondent pre-treated Patient with medication to decrease gastric acid secretion and increase gastric emptying, he did not order Bicitra, which would have reduced the risk of pulmonary damage due to aspiration in the event a general anesthetic became necessary in this obese patient who had received a large amount of Dilaudid preoperatively.

E. Respondent administered high flow oxygen, failed to obtain timely arterial blood gasses, and failed to obtain a blood glucose level after the return of spontaneous circulation to control/avoid hyperoxia and hyperglycemia, inconsistent with brain protection protocols.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 55618, issued to Frederick Lee Johnson, M.D.;

2. Revoking, suspending or denying approval of Frederick Lee Johnson, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

3. Ordering Frederick Lee Johnson, 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: May 1, 2017

Elizabeth Amaral

for KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

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