

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

**In the Matter of the First Amended)
Accusation and Petition to Revoke)
Probation Against:)**

JOHN P.S. JANDA, M.D.)

Case No. 800-2015-010860

**Physician's and Surgeon's)
Certificate No. A37510)**

**Respondent)
_____)**

DECISION

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

This Decision shall become effective at 5:00 p.m. on November 1, 2019

IT IS SO ORDERED October 25, 2019 .

MEDICAL BOARD OF CALIFORNIA

By: 
**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 State Bar No. 235250
2550 Mariposa Mall, Room 5090
4 Fresno, CA 93721
Telephone: (559) 705-2313
5 Facsimile: (559) 445-5106
Attorneys for Complainant
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7 **BEFORE THE**
8 **MEDICAL BOARD OF CALIFORNIA**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
and Petition to Revoke Probation Against:
12 **JOHN P. S. JANDA, M.D.**
PO BOX 26660
Fresno, CA 93729-6660
13 **Physician's and Surgeon's Certificate No. A**
14 **37510**
15 Respondent.

Case No. 800-2015-010860
OAH No. 2019071030
**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

- 20 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
21 of California (Board). She brought this action solely in her official capacity and is represented in
22 this matter by Xavier Becerra, Attorney General of the State of California, by Steve Diehl,
23 Supervising Deputy Attorney General.
24 2. John P. S. Janda, M.D. (Respondent) is represented in this proceeding by attorney
25 John Quincy Brown III, whose address is: 455 Capitol Mall, Suite 200, Sacramento, CA 95814.
26 3. On or about October 31, 1981, the Board issued Physician's and Surgeon's Certificate
27 No. A 37510 to Respondent. The Physician's and Surgeon's Certificate was on probationary
28 status at all times relevant to the charges brought in First Amended Accusation and Petition to

1 Revoke Probation No. 800-2015-010860, was suspended pursuant to Government Code section
2 11529 on June 1, 2017, and will expire on January 31, 2021, unless renewed.

3 **JURISDICTION**

4 4. First Amended Accusation and Petition to Revoke Probation No. 800-2015-010860
5 was filed before the Board, and is currently pending against Respondent. The First Amended
6 Accusation and Petition to Revoke Probation and all other statutorily required documents were
7 properly served on Respondent on July 20, 2018. The First Amended Accusation and Petition to
8 Revoke Probation was deemed controverted pursuant to Government Code Section 11507. A
9 copy of First Amended Accusation and Petition to Revoke Probation No. 800-2015-010860 is
10 attached as Exhibit A and incorporated by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in First Amended Accusation and Petition to Revoke Probation No. 800-
14 2015-010860. Respondent also has carefully read, fully discussed with counsel, and understands
15 the effects of this Stipulated Surrender of License and Order.

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

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

25 **CULPABILITY**

26 8. Respondent understands and agrees that the charges and allegations in First Amended
27 Accusation and Petition to Revoke Probation No. 800-2015-010860, if proven at a hearing,
28 constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

1 ORDER

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 37510, issued
3 to Respondent John P. S. Janda, M.D., is surrendered and accepted by the Board.

4 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
5 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
6 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
7 of Respondent's license history with the Board.

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

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

12 4. If Respondent ever files an application for licensure or a petition for reinstatement in
13 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
14 comply with all the laws, regulations and procedures for reinstatement of a revoked or
15 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
16 contained in First Amended Accusation and Petition to Revoke Probation No. 800-2015-010860
17 shall be deemed to be true, correct and admitted by Respondent when the Board determines
18 whether to grant or deny the petition. Pursuant to Business and Professions Code Section 2307,
19 subdivision (b)(1), Respondent may petition the Board for reinstatement two years after the
20 effective date of this Order.

21 5. If Respondent should ever apply or reapply for a new license or certification, or
22 petition for reinstatement of a license, by any other health care licensing agency in the State of
23 California, all of the charges and allegations contained in First Amended Accusation and Petition
24 to Revoke Probation, No. 800-2015-010860 shall be deemed to be true, correct, and admitted by
25 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
26 restrict licensure.

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To:

ACCEPTANCE

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

DATED:

September 26th 2019

[Signature]
JOHN P. S. JANDA, M.D.
Respondent

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

DATED:

September 26 2019

[Signature]
JOHN QUINCY BROWN III
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California

STEVE DIEHL,
Supervising Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

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

DATED: _____
JOHN P. S. JANDA, M.D.
Respondent

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

DATED: _____
JOHN QUINCY BROWN III
Attorney for Respondent

ENDORSEMENT

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

DATED: 9/26/19

Respectfully submitted,
XAVIER BECERRA
Attorney General of California


STEVE DIEHL
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation and Petition to Revoke Probation No. 800-2015-010860

JURISDICTION

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2 3. This First Amended Accusation and Petition to Revoke Probation, which supersedes
3 the Accusation filed on May 17, 2017, in the above entitled matter, is brought before the Board,
4 under the authority of the following laws. All section references are to the Business and
5 Professions Code unless otherwise indicated.

6 4. Section 2227 of the Code states:

7 “(a) A licensee whose matter has been heard by an administrative law judge of the Medical
8 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default
9 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary
10 action with the board, may, in accordance with the provisions of this chapter:

11 “(1) Have his or her license revoked upon order of the board.

12 “(2) Have his or her right to practice suspended for a period not to exceed one year upon
13 order of the board.

14 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon
15 order of the board.

16 “(4) Be publicly reprimanded by the board. The public reprimand may include a
17 requirement that the licensee complete relevant educational courses approved by the board.

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

20 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
21 review or advisory conferences, professional competency examinations, continuing education
22 activities, and cost reimbursement associated therewith that are agreed to with the board and
23 successfully completed by the licensee, or other matters made confidential or privileged by
24 existing law, is deemed public, and shall be made available to the public by the board pursuant to
25 Section 803.1.”

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5. Section 822 of the Code states:

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

"(a) Revoking the licentiate's certificate or license.

"(b) Suspending the licentiate's right to practice.

"(c) Placing the licentiate on probation.

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

"The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

6. Section 2052 of the Code states:

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

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

1 “(c) The remedy provided in this section shall not preclude any other remedy provided by
2 law.”

3 7. Section 2234 of the Code states:

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

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

9 “(b) Gross negligence.

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

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

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

20 “(d) Incompetence.

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

23 “(f) Any action or conduct that would have warranted the denial of a certificate.

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

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1 scope and length of any additional educational or clinical training, treatment for any medical
2 condition, treatment for any psychological condition, or anything else affecting Respondent's
3 practice of medicine. Respondent shall comply with all Program recommendations.

4 "At the completion of any additional educational or clinical training, Respondent shall
5 submit to and pass an examination. Determination as to whether Respondent successfully
6 completed the examination or successfully completed the Program is solely within the Program's
7 jurisdiction.

8 "Within 60 days after Respondent has successfully completed the clinical training program,
9 Respondent shall participate in a professional enhancement program equivalent to the one offered
10 by the Physician Assessment and Clinical Education Program at the University of California, San
11 Diego School of Medicine, which shall include quarterly chart review, semi-annual practice
12 assessment, and semi-annual review of professional growth and education. Respondent shall
13 participate in the professional enhancement program at Respondent's expense during the term of
14 probation, or until the Board or its designee determines that further participation is no longer
15 necessary."

16 **CAUSE FOR ACTION**

17 **(Impairment)**

18 10. Respondent John P. S. Janda, M.D. is subject to action under section 822 in that he
19 suffers from mental illness or physical illness affecting competency. The circumstances are as
20 follows:

21 11. On or about October 6, 2016, Respondent submitted to a neuropsychological
22 evaluation by a Board-appointed clinical neuropsychologist. The neuropsychologist noted a
23 pattern of deficits including "variable attention and sustained concentration, with deficits in
24 following instructions without external structure or support; impaired sound-symbol association;
25 deficits in visual perceptual processing; impaired visual-motor sequencing for over-learned and
26 novel materials; impaired confrontational naming (dysnomia) with phonemic and semantic
27 paraphasias; impaired verbal spontaneity; limited higher-order nonverbal abstract reasoning; and
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1 impaired executive functioning including impulsivity and impaired response inhibition,
2 perseveration, and emotional dysregulation.”

3 12. The neuropsychologist concluded that the “results of intellectual testing, and a
4 contrasting measure of predicted premorbid intellectual functioning, suggest that [Respondent]
5 has experienced a diminution of cognitive skills and abilities.” The neuropsychologist stated that
6 the results of the neuropsychological evaluation were “clearly abnormal,” and were “suggestive of
7 a diffuse pattern of cortical pathology. This includes primarily bilateral frontal and parietal lobe
8 structures. These results are indicative of global brain pathology, and may be progressive in
9 nature.” The neuropsychologist recommended a Magnetic Resonance Imaging (MRI) scan to
10 determine the source of Respondent’s apparent brain pathology.

11 13. Respondent’s pattern of deficits would directly impair his ability to practice safely in
12 his specialty of orthopedic surgery.

13 **CAUSE FOR REVOCATION OF PROBATION**

14 **(Violation of Probation: Condition #2, Clinical Training Program)**

15 14. Respondent’s probation is subject to revocation, pursuant to probation condition two
16 of the Probation Order, because he failed to timely complete a Clinical Training Program. The
17 circumstances are as follows:

18 15. On or about December 20, 2016, through December 21, 2016, Respondent
19 participated in Phase I of the Physician Assessment and Clinical Education Program (PACE)
20 offered at the University of California - San Diego School of Medicine. PACE does not consider
21 the two-day Phase I assessment sufficient to make judgments about competence. Completion of
22 PACE requires participation in Phase II of PACE, an approximately five-day program. To date,
23 Respondent has failed to enroll in or complete Phase II of PACE.

24 16. In addition to completion of Phase II, PACE recommended that Respondent
25 “complete a comprehensive fitness for duty neuropsychological evaluation.” To date, Respondent
26 has failed to complete such an examination through PACE.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Practicing with a Suspended License)**

3 17. Respondent is subject to disciplinary action under section 2234, subdivision (a), and
4 section 2052, in that he practiced medicine while having a suspended medical license. The
5 circumstances are as follows:

6 18. On or about June 1, 2017, in a matter entitled "In the Matter of the Petition for
7 Interim Suspension Order: Kimberly Kirchmeyer, Executive Director, Medical Board of
8 California, Petitioner, vs. John Janda M.D., Physician's and Surgeon's Certificate Number
9 A37510, Respondent," California Office of Administrative Hearings case number 2017050084, a
10 Decision and Order was issued suspending Respondent's medical license. Specifically, the Order
11 stated that:

12 "1. [Respondent] shall be and hereby is immediately restrained and prohibited from
13 practicing or attempting to practice any aspect of medicine in the State of California. The
14 suspension shall continue until such time that PACE has an opportunity to review and
15 consider [the Board-appointed clinical neuropsychologist's] October 6, 2016
16 neuropsychological evaluation and render its opinion on whether respondent is able to
17 function effectively as a physician, and in a manner conducive to public safety.

18 "2. If PACE determines that respondent is able to practice safely under the current
19 probation practice restrictions placed on his license, the interim order of suspension shall
20 immediately be stayed. If PACE determines otherwise, and finds that permitting respondent
21 to engage in the practice of medicine will endanger the public health, safety, and welfare,
22 the interim order of suspension shall continue in effect in accordance with the time limits
23 set forth in Government Code section 11529.

24 "3. A copy of this Decision shall be provided to PACE. Request is respectfully made
25 of PACE to make its determination within 30 days of receipt of this Decision.

26 "4. All of the terms and conditions of this interim order shall remain in full force and
27 effect until an accusation is issued and a decision is rendered thereon in accordance with
28 Government Code section 11529, subdivision (f), or this matter is otherwise resolved."

DISCIPLINARY CONSIDERATIONS

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2 24. To determine the degree of action, if any, to be taken against Respondent John P. S.
3 Janda, M.D., Complainant alleges that on or about October 16, 2015, in a prior disciplinary action
4 entitled *In the Matter of the Accusation Against John P. S. Janda, M.D.* before the Medical Board
5 of California, in Case Number 08-2009-197569, Respondent's license was placed on three years'
6 probation, with various terms and conditions, for gross negligence and repeated negligent acts in
7 his care of two patients. That decision is now final and is incorporated by reference as if fully set
8 forth herein.

9 25. To determine the degree of action, if any, to be taken against Respondent John P. S.
10 Janda, M.D., Complainant alleges that on or about April 28, 2003, in a prior disciplinary action
11 entitled *In the Matter of the Accusation Against John P. S. Janda, M.D.* before the Medical Board
12 of California, in Case Number 08-2000-110448, Respondent's license was placed on three years'
13 probation, with various terms and conditions, for gross negligence, alteration or modification of a
14 medical record, and inadequate recordkeeping. That decision is now final and is incorporated by
15 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 Board issue a decision:

1. Revoking the probation that was granted by the Medical Board of California in case number 08-2009-197569 and imposing the discipline that was stayed, thereby revoking Physicians' and Surgeons' number A37510 issued to John P.S. Janda, M.D.;

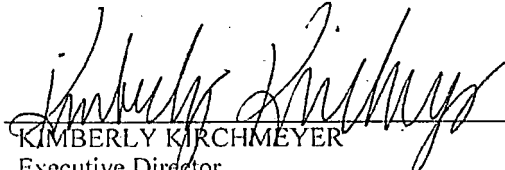
2. Revoking or suspending Physicians' and Surgeons' Certificate A37510, issued to John P.S. Janda, M.D.;

3. Revoking, suspending or denying approval of John P. S. Janda, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

4. Ordering John P. S. Janda, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: July 20, 2018


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

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