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

In the Matter of the Accusation Against: Noah Compton Johnson, M.D. Physician's & Surgeon's Certificate No. A 79548 Respondent.	Case No. 800-2021-079811

DECISION

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

This Decision shall become effective at 5:00 p.m. on January 17, 2025.

IT IS SO ORDERED: December 18, 2024.

MEDICAL BOARD OF CALIFORNIA

Michelle A. Bholat, MD

Michelle Anne Bholat, Chair
Panel A

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
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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: **NOAH COMPTON JOHNSON, M.D.** **10158 Buena Vista Ave.** **Santee, CA 92071-4435** **Physician's and Surgeon's Certificate No. A 79548,** Respondent.	Case No. 800-2021-079811 OAH No. 2024040490 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Karolyn M. Westfall, Deputy Attorney General.

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2. Respondent Noah Compton Johnson, M.D. (Respondent) is represented in this proceeding by attorney David M. Balfour, Esq., whose address is: Buchalter, 655 W. Broadway, Suite 1600, San Diego, CA 92101.

3. On or about June 21, 2002, the Board issued Physician's and Surgeon's Certificate No. A 79548 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2021-079811, and will expire on January 31, 2026, unless renewed.

JURISDICTION

4. Accusation No. 800-2021-079811 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 11, 2024. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2021-079811 is attached as hereto as Exhibit A and is 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. 800-2021-079811. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

8. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

9. Respondent admits that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2021-079811, and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. A 79548 to disciplinary action.

10. Respondent further agrees that if an accusation is filed against him in the future before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2021-079811, shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California or elsewhere.

11. Respondent agrees that his Physician's and Surgeon's Certificate No. A 79548 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.

12. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1, serves to protect the public interest.

CONTINGENCY

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

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14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreement of the parties in this above entitled matter.

15. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2021-079811 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

17. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 79548 issued to Respondent Noah Compton Johnson, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years from the effective date of the Decision on the following terms and conditions:

1. PATIENT DISCLOSURE. Before a patient's first visit following the effective date of this order and while Respondent is on probation, Respondent must provide all patients, or patient's guardian or health care surrogate, with a separate disclosure that includes Respondent's probation status, the length of the probation, the probation end date, all practice restrictions placed on Respondent by the Board, the Board's telephone number, and an explanation of how the patient can find further information on Respondent's probation on Respondent's profile page on the Board's website. Respondent shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure. Respondent shall not be required to provide a disclosure if any of the following applies: (1) The patient is unconscious or

otherwise unable to comprehend the disclosure and sign the copy of the disclosure and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy; (2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities; (3) Respondent is not known to the patient until immediately prior to the start of the visit; (4) Respondent does not have a direct treatment relationship with the patient.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, 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 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge 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. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

3. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after

Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

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

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, 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 cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, 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 cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

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

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

8. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

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

10. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement in the amount of $28,413.56 (twenty-eight thousand four hundred thirteen dollars and fifty-six cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Payment must be made in full within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board of California. Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board. Failure to comply with the payment plan shall be considered a violation of probation.

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs.

11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been

compliance with all the conditions of probation.

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

12. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days. In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

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

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

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards' Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

Periods of non-practice for Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing..

15. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the

completion of probation. This term does not include cost recovery, which is due within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board and timely satisfied. Upon successful completion of probation, Respondent's certificate shall be fully restored.

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

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

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

19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care

licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2021-079811 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, David M. Balfour, 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 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11/1/2024

DocuSigned by:
Noah Johnson, MD
NOAH COMPTON JOHNSON, M.D.
Respondent

I have read and fully discussed with Respondent Noah Compton Johnson, 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: 11/1/2024

David M Balfour
DAVID M. BALFOUR, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

DATED: 11/4/24

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

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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: **NOAH COMPTON JOHNSON, M.D.** **10158 Buena Vista Ave.** **Santee, CA 92071-4435** **Physician's and Surgeon's Certificate No. A 79548,** Respondent.	Case No. 800-2021-079811 **A C C U S A T I O N**

PARTIES

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

2. On or about June 21, 2002, the Medical Board issued Physician's and Surgeon's Certificate No. A 79548 to Noah Compton 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 January 31, 2026, 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 (Code) unless otherwise indicated.

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

5. Section 2234 of the Code, states, in pertinent part:

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

6. Section 2228.1 of the Code states, in pertinent part:

> (a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board and the Podiatric Medical Board of California shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information internet web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

...

(D) Inappropriate prescribing resulting in harm to patients and a probationary period of five years or more.

(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendre or other similar compromise that does not include any prima facie showing or admission of guilt or fact but does include an express acknowledgment that the disclosure requirements of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information Internet web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

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(5) All practice restrictions placed on the license by the board.

(e) Section 2314 shall not apply to this section.

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

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

9. Respondent has subjected his Physician's and Surgeon's Certificate No. A 79548 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patients A, B, and C,[1] as more particularly alleged hereinafter:

PATIENT A

10. In or around 2012,[2] Respondent began providing care and treatment to Patient A as her primary care physician. Patient A had a complicated medical history that included depression, anxiety, dyslipidemia, hypertension, hyperthyroidism, hyperlipidemia, rheumatoid arthritis, fibromyalgia, olecranon bursitis, peripheral neuropathy, and chronic pain.

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[1] To protect the privacy of the patients involved, the patients' names have not been included in this pleading. Respondent is aware of the identity of the patients referred to herein.

[2] Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

11. Between on or about June 20, 2017, and on or about November 29, 2021, Patient A presented to Respondent for approximately twenty-three (23) clinical visits. Throughout that time, Respondent maintained Patient A on regular prescriptions of high dose oxycodone[3] and carisoprodol.[4] Throughout that time, Patient A filled her prescriptions at approximately sixteen (16) different pharmacies.

12. Between on or about June 20, 2017, and on or about November 29, 2021, Respondent did not order any urine drug screens for Patient A, did not obtain a pain management agreement, did not create and/or document an individualized treatment plan, did not discuss and/or document a discussion with Patient A regarding the risks and benefits of controlled substances, did not document or incorporate his findings from CURES[5] reports, and rarely documented a thorough history of present illness, an assessment of pain severity, pain functional scores, an assessment of drug side effects, or thorough physical examinations of the reported areas of pain.

13. On or about August 10, 2017, Respondent received a notice from Patient A's insurance provider informing him that Patient A was being prescribed opioid medication in a manner inconsistent with safe or appropriate use, Food and Drug Administration (FDA) guidance, and/or consensus guidelines.

14. On or about September 1, 2017, Patient A presented to Respondent for a refill on her pain medications. Respondent documented Patient A's history of present illness as, "I'm in pain, affecting what I do." No other information about the pain or source of pain was documented and a musculoskeletal exam was not conducted.

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[3] Oxycodone (brand name Oxycontin or Xtampza) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant section 4022 of the Code. It is an opioid medication used to treat severe pain.

[4] Carisoprodol (brand name Soma) is a Schedule IV controlled substance as of January 11, 2012, pursuant to Health and Safety Code section 11057, and a dangerous drug pursuant to section 4022 of the Code. It is a muscle relaxant medication used to treat pain.

[5] CURES is the Controlled Substances Utilization Review and Evaluation System (CURES), a database maintained by the Department of Justice of Schedule II, III and IV controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement.

15. On or about February 14, 2018, Patient A presented to Respondent for a follow-up with a request to check her ears and great left toe. Respondent documented Patient A's history of present illness as, "pain about the same, working on getting mother with dementia into long-term care." No other information about the pain, source of pain, or concern about Patient A's ear or toe was documented, and an examination of the ear or toe was not performed and/or documented.

16. On or about July 5, 2018, Patient A presented to Respondent for a medication refill and a request to check a mole on her face. Respondent documented that Patient A had no side effects from the medication, no addiction, and no diversion. No other information about the mole was documented and an examination of the mole was not performed and/or documented.

17. On or about September 3, 2018, Patient A presented to the emergency department (ED) with complaints of withdrawal symptoms after having run out of her medications that day. After the physician confirmed Patient A had just received a 30-day fill approximately twenty-four (24) days earlier, Patient A admitted taking more medications than usual for worse pain.

18. On or about September 4, 2018, Patient A presented to Respondent to discuss her medications. Patient A admitted running out of her medications the day prior. Respondent did not discuss and/or document a discussion with Patient A about her pain, taking more medications than prescribed, opioid dependence, or addiction.

19. On or about April 5, 2019, Patient A presented to Respondent for a medication refill and a request to check a bump on her chin and right ear. Respondent documented Patient A's history of present illness as, "pain breakthrough at times." No other information about the pain, source of pain, or concern about Patient A's chin or ear was documented, and an examination of a bump on the chin or ear was not performed and/or documented.

20. On or about May 3, 2019, Respondent received notification from a pharmacy that Patient A was taking multiple narcotics and filling at multiple pharmacies.

21. On or about September 24, 2019, Patient A presented to Respondent for a medication review and a request to check a lesion around her neck. No other information about the lesion was documented, and an examination of the neck was not performed and/or documented.

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22. On or about December 22, 2020, Patient A presented to Respondent for a medication refill. Respondent documented Patient A's history of present illness as, "occasionally left sided face feels sensitive can be right face, occasional headache." A neurological examination was not performed and/or documented.

23. On or about November 29, 2021, Patient A presented to Respondent for a follow-up on her pain medications. A history of present illness was not documented. At the conclusion of the visit, Respondent referred Patient A to pain management for the first time.

24. Respondent committed gross negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

A. Prescribing dangerous combinations of controlled substances without appropriate evaluation, monitoring, and risk mitigation; and

B. Regularly prescribing controlled medications without performing and/or documenting necessary monitoring, including but not limited to, documenting and incorporating CURES review and findings, ordering urine drug screens, evaluating for drug side effects, updating history of present illness, obtaining pain severity and functioning levels, and examining areas of pain.

PATIENT B

25. In or around 2013, Respondent began providing care and treatment to Patient B as her primary care physician. Patient B had a complicated medical history that included alcohol use disorder, hypertension, hiatal hernia, insomnia, seizure, anxiety, Parkinson's disease, hypokalemia, depression, sleep apnea, obesity, lumbar spondylosis, ankle joint replacement, cervical neuritis, and chronic pain.

26. Between on or about May 2, 2017, and on or about April 6, 2020, Patient B presented to Respondent for approximately twenty-three (23) clinical visits. Throughout that time, Respondent maintained Patient B on regular prescriptions of high dose oxycodone and clonazepam.[6]

[6] Clonazepam (brand name Klonopin) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to section

27. Between on or about May 2, 2017, and on or about April 6, 2020, Respondent did not order any urine drug screens for Patient B, did not obtain a pain management agreement, did not create and/or document an individualized treatment plan, did not discuss and/or document a discussion with Patient B regarding the risks and benefits of controlled substances, did not document or incorporate his findings from CURES reports, and rarely documented a thorough history of present illness, an assessment of pain severity, pain functional scores, an assessment of drug side effects, or thorough physical examinations of the reported areas of pain.

28. On or about May 2, 2017, Patient B presented to Respondent for a Pap smear and medication check. Patient B reported having seen a vascular surgeon who prescribed a lymphedema pump, and an orthopedist who discussed either fusion or replacement of her right ankle. Patient B reported that her pain was improved with pain medications, denied any side effects, tolerance, addiction, or diversion. No other information about the pain or source of pain was documented and a musculoskeletal exam was not conducted.

29. On or about March 1, 2018, Patient B was transported to the ED by paramedics after she was found at home by a family member exhibiting confusion and slurred speech. Patient B was noted to be a chronic alcoholic, and her family member informed staff that she believed Patient B drinks more than she admits. Patient B was admitted to the hospital for four days and, among other things, was diagnosed with alcohol dependence with withdrawal delirium.

30. On or about March 15, 2018, Patient B called a help line expressing persistent suicidal ideation. The help line contacted Respondent's office, who noted Patient B had an appointment to see Respondent later that day. When Patient B presented to Respondent later that day, she complained of low mood and motivation. Respondent did not discuss and/or document a discussion with Patient B about suicidal ideation. Although Respondent was aware of Patient B's recent hospitalization, Respondent did not discuss and/or document a discussion with Patient B about alcohol, and made no changes to her oxycodone or clonazepam prescriptions at that time.

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4022 of the Code. It is an anti-anxiety medication in the benzodiazepine family.

31. On or about March 28, 2018, Respondent referred Patient B to an alcohol and substance abuse treatment program.

32. On or about September 6, 2018, Respondent authorized an early refill of Patient B's medications due to her going on vacation.

33. On or about August 5, 2019, Patient B presented to Respondent with complaints of constipation. Respondent noted Patient B was falling asleep during this visit and diagnosed her with dehydration, pallor, and sleepiness. Respondent did not administer naloxone to Patient B, but called 911 and had her transported to the ED. While in the hospital, Patient B was diagnosed with, among other things, chronic narcotic use, dependence, and overdose.

34. On or about August 9, 2019, Patient B presented to Respondent for a follow-up after her discharge from the hospital. At the conclusion of the visit, Respondent decreased Patient B's dose of oxycodone and clonazepam.[7]

35. On or about April 6, 2020, Patient B presented to Respondent with complaints of multiple falls per day, lack of balance, excessive shaking, and sleep terrors. Respondent diagnosed Patient B for the first time with alcoholism, discussed the need for her to stop drinking, and referred her to a psychologist. Respondent documented a plan to decrease Patient B's clonazepam and to discontinue opiates.

36. Respondent committed gross negligence in his care and treatment of Patient B, which included, but was not limited to, the following:

A. Prescribing and refilling dangerous combinations of controlled substances without appropriate evaluation, monitoring, and risk mitigation; and

B. Regularly prescribing controlled medications without performing and/or documenting necessary monitoring, including but not limited to, documenting and incorporating CURES review and findings, ordering urine drug screens, evaluating for drug side effects, updating history of present illness, obtaining pain severity and functioning levels, and examining areas of pain.

[7] Respondent documented in Patient B's chart that he was discontinuing Oxycontin and decreasing clonazepam. According to CURES, the decrease did not occur immediately.

PATIENT C

37. In or around 2012, Respondent began providing care and treatment to Patient C as his primary care physician. Patient C had a complicated medical history that included diabetes mellitus type II, pulmonary hypertension, diabetic nephropathy, hypertension, congestive heart failure, sleep apnea, hyperlipidemia, venous insufficiency, obesity, hypothyroidism, osteoarthritis, renal failure, and chronic pain.

38. Between on or about June 8, 2017, and on or about February 17, 2022, Patient C presented to Respondent for approximately thirteen (13) clinical visits. Throughout that time, Respondent maintained Patient C on regular prescriptions of high dose oxycodone. Throughout that time, Patient C was also regularly prescribed pregabalin[8] by other prescribers, but Patient C's chart does not contain any records or documented discussions with those other prescribers.

39. Between on or about June 8, 2017, and on or about February 17, 2022, Respondent did not order any urine drug screens for Patient C, did not obtain a pain management agreement, did not create and/or document an individualized treatment plan, did not discuss and/or document a discussion with Patient C regarding the risks and benefits of controlled substances, did not document or incorporate his findings from CURES reports, and rarely documented a thorough history of present illness, an assessment of pain severity, pain functional scores, an assessment of drug side effects, or thorough physical examinations of the reported areas of pain.

40. On or about March 31, 2016, Patient C presented to the ED with an altered mental state after his family found him confused with a spilled bottle of oxycodone at his bedside. Patient C was admitted to the hospital and treated for, among other things, narcotic overdose. Upon his discharge on or about April 3, 2016, Patient C was strongly recommended to follow-up with a pain specialist.

41. On or about June 8, 2017, Patient C presented to Respondent for pain management. This was Patient C's first visit in six (6) months and his only visit in 2017. Respondent noted that Patient C sees a nephrologist and primary care physician at the VA. Patient C complained of

[8] Pregabalin (brand name Lyrica) is a Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision (b), and a dangerous drug pursuant to section 4022 of the Code. It is used to treat nerve and muscle pain, including fibromyalgia.

neuropathic pain and low back pain that prevented him from standing longer than five minutes. No other information about the pain was documented and a musculoskeletal exam was not conducted.

42. On or about November 26, 2018, Patient C presented to Respondent for a medication refill, diabetes check, and foot and retinal exams. This was Patient C's first visit in six (6) months. Patient C complained of continued low back pain and reported taking medications as prescribed. A foot or retinal exam was not performed and/or documented. Although Respondent did not prescribe Norco[9] to Patient C at that visit or any prior visit, Respondent documented in Patient C's chart "norco refilled."

43. On or about March 22, 2021, Patient C presented to Respondent for medication refills. Patient C complained of swelling in his legs, arm twitching, recently falling, and a general lack of balance. Patient C's oxygen saturation was measured to be 87% at this visit. At the conclusion of the visit, Respondent recommended a home oxygen evaluation.

44. On or about March 25, 2021, Patient C presented to Respondent for a medication refill and follow-up. Patient C had been placed on home oxygen, and his oxygen saturation was measured to be 90% at this visit. Respondent noted Patient C's chronic opiate therapy was likely depressing his respiratory drive and decreased his dose of oxycodone.

45. On or about September 30, 2021, Patient C presented to Respondent for a follow-up on his prescriptions. This was Patient C's first visit in six (6) months, but a specific history of present illness was not obtained, and an assessment and plan were not documented.

46. On or about February 17, 2022, Patient C died as a result of acute on chronic respiratory failure with hypercapnia and hypoxia, septic shock with bloodstream infection, and acute on chronic systolic congestive heart failure.

47. Respondent committed gross negligence in his care and treatment of Patient C, which included, but was not limited to, the following:

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[9] Norco (brand name for acetaminophen and hydrocodone bitartrate) is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to section 4022 of the Code. It is an opioid medication used to treat pain.

A. Prescribing and refilling controlled substances without appropriate evaluation, monitoring, and risk mitigation; and

B. Regularly prescribing controlled medications without performing and/or documenting necessary monitoring, including, but not limited to, documenting and incorporating CURES review and findings, ordering urine drug screens, evaluating for drug side effects, updating history of present illness, obtaining pain severity and functioning levels, and examining areas of pain.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

48. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 79548 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patients A, B, and C, as more particularly alleged hereinafter:

A. Paragraphs 9 through 47(B), above, are hereby incorporated by reference and realleged as if fully set forth herein;

B. Failing to maintain adequate and accurate records with Patient A, which included, but was not limited to, appropriate history of present illness, physical examinations, and informed consent discussions;

C. Failing to maintain adequate and accurate records with Patient B, which included, but was not limited to, appropriate history of present illness, physical examinations, and informed consent discussions; and

D. Failing to maintain adequate and accurate records with Patient C, which included, but was not limited to, appropriate history of present illness, physical examinations, and informed consent discussions.

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THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

49. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 79548 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding his care and treatment of Patients A, B, and C, as more particularly alleged in paragraphs 9 through 48(D), above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 79548, issued to Respondent Noah Compton Johnson, M.D.;

2. Revoking, suspending, or denying approval of Respondent Noah Compton Johnson, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Noah Compton Johnson, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

4. Ordering Respondent Noah Compton Johnson, M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: MAR 11 2024

REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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