

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

In the Matter of the First	)	
Amended Accusation Against:	)	
	)	
	)	
Scott Clark Sessions, M.D.	)	Case No. 800-2014-004336
	)	
Physician's and Surgeon's	)	
Certificate No. G84594	)	
	)	
Respondent	)	
_____	)	

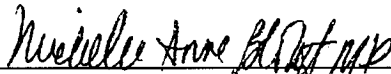
DECISION

The attached Stipulated Settlement 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 2, 2017.

IT IS SO ORDERED January 3, 2017.

MEDICAL BOARD OF CALIFORNIA

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

1 KAMALA D. HARRIS
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2 ALEXANDRA M. ALVAREZ
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8 *Attorneys for Complainant*

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

13 In the Matter of the First Amended Accusation
14 Against:

15 **SCOTT CLARK SESSIONS, M.D**
16 **10946 Evening Creek Drive #127**
San Diego, CA 92128

17 **Physician's and Surgeon's Certificate No.**
G84594

18 Respondent.

Case No. 800-2014-004336

OAH No. 2015110562

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Kamala D. Harris, Attorney General of the State of California, by Karolyn M.
26 Westfall, Deputy Attorney General.

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2. Respondent Scott Clark Sessions, M.D (Respondent) is represented in this proceeding by attorney Robert W. Frank Esq., whose address is: 1010 Second Ave., Ste. 2500 San Diego, CA 92101-4959.

3. On or about June 5, 1998, the Board issued Physician's and Surgeon's Certificate No. G84594 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2014-004336, and will expire on November 30, 2017, unless renewed.

JURISDICTION

4. On September 17, 2015, Accusation No. 800-2014-004336 was filed against Respondent before the Board. A true and correct copy of Accusation No. 800-2014-004336, and all other statutorily required documents, were properly served on Respondent on September 17, 2015. Respondent timely filed his Notice of Defense contesting the Accusation.

5. On May 20, 2016, First Amended Accusation No. 800-2014-004336 was filed before the Board and is currently pending against Respondent. A true and correct copy of First Amended Accusation No. 800-2014-004336, and a Supplemental Statement to Respondent, were properly served on Respondent on May 20, 2016. A true and correct copy of First Amended Accusation No. 800-2014-004336 is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2014-004336. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in First Amended Accusation No. 800-2014-004336; 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

1 adverse decision; and all other rights accorded by the California Administrative Procedure Act
2 and other applicable laws.

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

5 CULPABILITY

6 9. Respondent agrees that, at an administrative hearing, complainant could establish a
7 *prima facie* case with respect to the charges and allegations contained in First Amended
8 Accusation No. 800-2014-004336, and that he has thereby subjected his Physician's and
9 Surgeon's Certificate No. G84594 to disciplinary action. Respondent further agrees to be bound
10 by the Board's imposition of discipline as set forth in the Disciplinary Order below.

11 10. Respondent agrees that if an accusation is filed against him before the Board, or in
12 any other proceeding before the Board, all of the charges and allegations contained in First
13 Amended Accusation No. 800-2014-004336 shall be deemed true, correct, and fully admitted by
14 respondent for purposes of any such proceeding or any other licensing proceeding involving
15 respondent in the State of California.

16 CONTINGENCY

17 11. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the
18 Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
19 submitted to the Board for its consideration in the above-entitled matter and, further, that the
20 Board shall have a reasonable period of time in which to consider and act on this Stipulated
21 Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully
22 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
23 prior to the time the Board considers and acts upon it.

24 12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
25 and void and not binding upon the parties unless approved and adopted by the Board, except for
26 this paragraph, which shall remain in full force and effect. Respondent fully understands and
27 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
28 Disciplinary Order, the Board may receive oral and written communications from its staff and/or

1 the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify
2 the Board, any member thereof, and/or any other person from future participation in this or any
3 other matter affecting or involving Respondent. In the event that the Board does not, in its
4 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
5 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
6 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
7 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
8 be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any
9 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
10 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

11 **ADDITIONAL PROVISIONS**

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

15 14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
16 including copies of the signatures of the parties, may be used in lieu of original documents and
17 signatures and, further, that such copies shall have the same force and effect as originals.

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

21 **DISCIPLINARY ORDER**

22 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G84594 issued
23 to Respondent Scott Clark Sessions, M.D. is revoked. However, the revocation is stayed and
24 Respondent is placed on probation for three (3) years from the effective date of the Decision on
25 the following terms and conditions.

26 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
27 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
28 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours

1 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
2 correcting any areas of deficient practice or knowledge in the prescribing or dosing of anesthesia
3 and shall be Category I certified. The educational program(s) or course(s) shall be at
4 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
5 requirements for renewal of licensure. Following the completion of each course, the Board or its
6 designee may administer an examination to test Respondent's knowledge of the course.
7 Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in
8 satisfaction of this condition.

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

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

25 Respondent shall submit a certification of successful completion to the Board or its
26 designee not later than 15 calendar days after successfully completing the course, or not later than
27 15 calendar days after the effective date of the Decision, whichever is later.

28 ///

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

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

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

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

27 The monitor shall submit a quarterly written report to the Board or its designee which
28 includes an evaluation of Respondent's performance, indicating whether Respondent's practices

1 are within the standards of practice of medicine, and whether Respondent is practicing medicine
2 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
3 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
4 preceding quarter.

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

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

19 4. PROHIBITED PRACTICE. During probation, respondent is prohibited from
20 performing any procedures requiring any form of sedation in a non-accredited surgery center.
21 After the effective date of this Decision, all patients to whom respondent is performing any
22 procedure(s) requiring any form of sedation, shall be notified that respondent is prohibited from
23 performing the procedure(s) in a non-accredited surgery center.

24 Respondent shall maintain a log of all patients to whom the required oral notification was
25 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
26 medical record number, if available; 3) the full name of the person making the notification; 4) the
27 date the notification was made; and 5) a description of the notification given. Respondent shall
28 keep this log in a separate file or ledger, in chronological order, shall make the log available or

1 immediate inspection and copying on the premises at all times during business hours by the Board
2 or its designee, and shall retain the log for the entire term of probation.

3 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
4 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief
5 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
6 extended to Respondent, at any other facility where Respondent engages in the practice of
7 medicine, including all physician and locum tenens registries or other similar agencies, and to the
8 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
9 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
10 15 calendar days.

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

12 6. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
13 prohibited from supervising physician assistants.

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

17 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
18 under penalty of perjury on forms provided by the Board, stating whether there has been
19 compliance with all the conditions of probation.

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

22 9. GENERAL PROBATION REQUIREMENTS.

23 Compliance with Probation Unit

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

26 Address Changes

27 Respondent shall, at all times, keep the Board informed of Respondent's business and
28 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(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.

10. 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.

11. 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 in California 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. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or

1 Federal jurisdiction while on probation with the medical licensing authority of that state or
2 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
3 not be considered as a period of non-practice.

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

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

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

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

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

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

24 14. LICENSE SURRENDER. Following the effective date of this Decision, if
25 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
26 the terms and conditions of probation, Respondent may request to surrender his or her license.
27 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
28 determining whether or not to grant the request, or to take any other action deemed appropriate

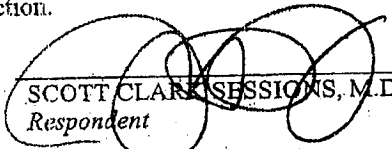
1 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
2 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
3 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
4 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
5 application shall be treated as a petition for reinstatement of a revoked certificate.

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

11 ACCEPTANCE

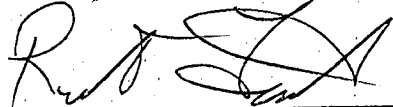
12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Robert W. Frank Esq. I understand the stipulation and the effect it
14 will have on my Physician's and Surgeon's Certificate No. G84594. I enter into this Stipulated
15 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
16 bound by the Decision and Order of the Medical Board of California. I also fully understand that
17 any failure to comply with the terms and conditions of the Disciplinary Order set forth above
18 shall constitute unprofessional conduct and will subject my Physician's and Surgeon's Certificate
19 No. G84594 to further disciplinary action.

20 DATED: 12/13/16

21 
SCOTT CLARK SESSIONS, M.D.
Respondent

22 I have read and fully discussed with Respondent Scott Clark Sessions, M.D the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
24 I approve its form and content.

25 DATED: 12-15-16

26 
ROBERT W. FRANK ESQ.
Attorney for Respondent

ENDORSEMENT

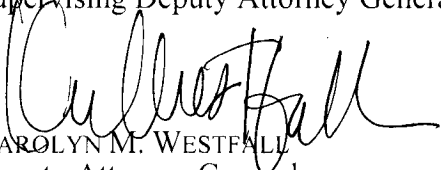
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated:

12/16/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General


KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2014-004336

1 KAMALA D. HARRIS
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8 *Attorneys for Complainant*

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

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**In the Matter of the First Amended
Accusation Against:**

**SCOTT CLARK SESSIONS, M.D.
5565 Grossmont Center Dr.
Bldg. #1, Ste 120
La Mesa, CA 91942**

**Physician's and Surgeon's Certificate
No. G84594.**

Respondent.

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 20 20 16
BY R. Firdaus ANALYST

**Case No. 8002014004336;
OAH No. 2015110562**

FIRST AMENDED ACCUSATION

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Complainant alleges:

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PARTIES

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1. Kimberly Kirchmeyer (complainant) brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

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2. On or about June 5, 1998, the Medical Board issued Physician's and Surgeon's Certificate Number G84594 to Scott Clark Sessions, M.D. (respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges and allegations brought herein and will expire on November 30, 2017, unless renewed.

JURISDICTION

3. This First Amended Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, 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 states:

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

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

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

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

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

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

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

1 5. Section 2234 of the Code, states:

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

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

7 "(b) Gross negligence.

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

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

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

20 "..."

21 6. Unprofessional conduct under Code section 2234 is conduct which breaches the rules
22 or ethical code of the medical profession, or conduct which is unbecoming to a member in good
23 standing of the medical profession, and which demonstrates an unfitness to practice medicine.
24 (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

25 7. Section 2266 of the Code states:

26 "The failure of a physician and surgeon to maintain adequate and accurate records
27 relating to the provision of services to their patients constitutes unprofessional conduct."

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 8. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
4 by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care
5 and treatment of patients C.P. and G.F., as more particularly alleged hereinafter:

6 **Patient C.P.**

7 9. On or about June 20, 2011, patient C.P., a then fifty-two (52) year old female, went to
8 the Sessions Plastic Surgery Centre to undergo a bilateral upper and lower lid blepharoplasty¹ and
9 a face and neck lift. The operation was performed by respondent. Patient C.P. was placed under
10 conscious sedation which involved the administration of local infiltration anesthetic for her face
11 and upper eyelid procedures. On her pre-anesthesia evaluation form, patient C.P. indicated she
12 had had problems with anesthesia. Specifically, patient C.P. suffered nausea and vomiting after
13 undergoing a surgery under general anesthesia. Respondent did not review patient C.P.'s pre-
14 anesthesia evaluation form prior to administering anesthesia on or about June 20, 2011.

15 10. On or about June 20, 2011, at approximately 8:00 a.m., patient C.P. was brought into
16 the operating room. Respondent administered 50 mcg of Fentanyl and 5 mg of Versed to patient
17 C.P. at about 8:05 a.m., and then he began injecting local anesthesia, first into patient C.P.'s
18 eyelids and then into the subcutaneous tissues of her face and neck. Respondent documented he
19 injected 24 cc of 2% Lidocaine with 1:100,000 Epinephrine into the eyelids, and then 50 cc of
20 1/4% Lidocaine with 1:400,000 Epinephrine into her face. Respondent's LVN, C.J., took patient
21 C.P.'s vitals at 8:00 a.m., 8:10 a.m., and 8:20 a.m. After respondent completed giving the
22 injections to patient C.P., she began to exhibit signs of seizures. Respondent was outside the
23 operating room when patient C.P. began having the seizures. When respondent was called back
24 into the operating room, patient C.P.'s whole body was shaking. Respondent placed an oxygen
25 mask on patient C.P. and administered another 5 mg of Versed intravenously to patient C.P.
26 Patient C.P.'s seizures appeared to subside.

27 _____
28 ¹ Blepharoplasty is surgical repair or reconstruction of an eyelid.

1 11. Approximately ten minutes later, patient C.P. had another episode of seizures.
2 Respondent ordered the nurse to give patient C.P. 4 mg of IV Atropine and Epinephrine. This
3 stabilized the patient for a short time, but patient C.P.'s heart rate and blood pressure started to
4 drop and respondent could not keep C.P.'s oxygen saturation at an acceptable level. Patient C.P.
5 developed bradycardia and hypotension. After the second series of seizures, scrub technician
6 R.M. stepped outside to call 911 because respondent could not stabilize patient C.P. Patient C.P.
7 went into cardiac arrest and her breathing stopped. Respondent then performed chest
8 compressions on patient C.P.

9 12. Throughout the emergency at the Sessions Plastic Surgery Centre, respondent failed
10 to properly document the times when drugs were administered, how oxygen was being delivered
11 to patient C.P., and patient C.P.'s vital signs during the seizures and cardiac arrest.

12 13. When paramedics arrived, they initiated life saving emergency treatment on patient
13 C.P. This included intubating patient C.P. and the placement of resuscitation pads on patient C.P.
14 Patient C.P. was then transferred to Grossmont Hospital by ambulance.

15 14. Once at the hospital, patient C.P. was taken into the trauma area of the emergency
16 room to be stabilized. After she was stabilized, patient C.P. was placed into a medically induced
17 coma in order to reduce the injury to her brain.

18 15. On or about June 22, 2011, patient C.P. was extubated and brought out of the
19 medically induced coma. Thereafter, and for approximately one month, patient C.P. had
20 difficulty maintaining equilibrium. Patient C.P. also complained of short term memory problems.
21 Patient C.P. had her driver's license suspended for a month because of her seizures, and she was
22 off work for six weeks.

23 16. On or about January 22, 2015, respondent was interviewed during the Board's
24 investigation of this case and, during that interview, he acknowledged that patient C.P.'s seizures
25 were caused by the administration of "too much" Lidocaine. The maximum safe dosage of
26 Lidocaine with Epinephrine for patient C.P., who weighed 54 kg at the time of her surgery, would
27 have been 375 mg of Lidocaine. According to respondent's own recollection, he administered
28 432 mg of Lidocaine, which was far above the maximum safe dosage for patient C.P.

1 17. Respondent committed gross negligence in his care and treatment of patient C.P.
2 which included, but was not limited to, the following:

3 (a) Respondent administered an overdose of Lidocaine to patient C.P.

4 **Patient G.F.**

5 18. On or about April 9, 2013, patient G.F., a then seventy-three (73) year old female,
6 consulted with respondent regarding multiple concerns regarding her abdomen, breasts, face and
7 knees. Patient G.F. reported using an inhaler, as needed, for asthma. Respondent recommended
8 patient G.F. undergo a full neck lift, adding fat to the face, abdominoplasty,² inferior pedicle
9 mastopexy³ with saline implants, fillers to the face, and liposuction⁴ to the flanks and her upper
10 back. Respondent recommended that patient G.F. undergo two separate procedures.

11 19. On or about April 16, 2013, patient G.F. underwent autologous fat transfer to the
12 cheeks. According to the "time-out" protocol, patient G.F. was to receive Juvederm.⁵ Patient
13 G.F. consented for "FAT TRANSFER/FACE AND ICC JUVEDERM." According to the
14 operative report, Versed and fentanyl were administered to patient G.F., however there is no
15 mention of Juvederm. Respondent did not document a history or physical for patient G.F., on this
16 date.

17 20. On or about May 15, 2013, patient G.F. underwent a pre-operative physical
18 examination with respondent. Patient G.F. reported having high blood pressure, asthma and
19 arthritis/rheumatism. Respondent documented examining patient G.F.'s face, breasts, abdomen
20 and extremities. Patient G.F. was noted to be "healthy." Hemoglobin was noted to be 12.8. An
21 electrocardiogram (ECG),⁶ also dated May 15, 2013, reported an incomplete right bundle-branch

22 ² Abdominoplasty or "tummy tuck" is a cosmetic procedure that flattens the abdomen by
23 removing extra fat and skin and tightening muscles in the abdominal wall.

24 ³ A mastopexy is the procedure for raising sagging breasts.

25 ⁴ Liposuction (lipoplasty, liposculpture suction lipectomy or simply lipo) is a cosmetic
26 procedure that removes fat from many different sites on the human body.

27 ⁵ Juvaderm is a smooth injectable gel used to restore the skin's volume and smooth away
28 facial wrinkles and folds.

⁶ An electrocardiogram is a test that checks for problems with the electrical activity of the
(continued...)

1 block; but otherwise normal ECG. Respondent did not preoperatively perform a heart or lung
2 exam on patient G.F.

3 21. On or about May 21, 2013, patient G.F. underwent a neck lift with plication of the
4 platysma muscle, abdominoplasty with liposuction to the flanks, submuscular augmentation
5 mammoplasty using saline implants with inferior pedicle mastopexy, and suction assisted
6 lipectomy of the medial knees. The procedure was performed at a certified surgery center where
7 respondent was the Medical Director. Prior to the procedure, patient G.F. was interviewed and
8 examined by J.K., M.D., an anesthesiologist, who okayed her for the proposed anesthetic and the
9 proposed surgery. J.K., M.D. noted that patient G.F. was an ASA Class II,⁷ on the same page that
10 patient G.F. had previously noted that she had high blood pressure, asthma, and
11 arthritis/rheumatism. J.K., M.D., did not document a heart or lung examination of patient G.F.
12 Following the procedure, patient G.F. was discharged home.

13 22. On or about May 23, 2013, patient G.F. became swollen, weak and short of breath.
14 Patient G.F. was admitted into the hospital and had a prolonged hospital course that included
15 multiple wounds from tissue breakdown at the operative sites, sepsis, respiratory failure, renal
16 failure, congestive heart failure, metabolic encephalopathy, and pleural effusion. Patient G.F.
17 was discharged from the hospital to a rehabilitation facility, where she remained for six months.

18 23. Respondent committed gross negligence in his care and treatment of patient G.F.
19 which included, but was not limited to, the following:

20 (a) Respondent failed to perform a heart and lung exam of patient G.F. before
21 performing major surgery on patient G.F. on or about May 21, 2013.

22 ///

23 ///

24 ///

25 ///

26 (...continued)
27 heart.

28 ⁷ American Society of Anesthesiology Classification indicating that the patient had mild
systemic disease with no functional limitations.

30. Paragraphs 8 through 17 and 24 through 26 above, are hereby incorporated by reference and re-alleged 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 issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G84594, issued to respondent Scott Clark Sessions, M.D.;
2. Revoking, suspending or denying approval of respondent Scott Clark Sessions, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering respondent Scott Clark Sessions, 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 20, 2016

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

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