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

In the Matter of the Accusation Against: Johnathan Richard Perry, M.D. Physician's & Surgeon's Certificate No G 72992 Respondent	Case No. 800-2019-062233

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 September 17, 2021.

IT IS SO ORDERED August 18. 2021.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D., Chair
Panel B

ROB BONTA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
HAMSA M. MURTHY
Deputy Attorney General
State Bar No. 274745
455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **JOHNATHAN RICHARD PERRY, M.D.** **6703 W Rio Grande Ave.** **Building B** **Kennewick WA 99336** **Physician's and Surgeon's Certificate No. G 72992** Respondent.	Case No. 800-2019-062233 OAH No. 2020120485 **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. William Prasifka (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 Hamsa M. Murthy, Deputy Attorney General.

2. Respondent Johnathan Richard Perry, M.D. (Respondent) is represented in this proceeding by attorney Derek F. O'Reilly-Jones of Bonne Bridges, whose business address is: 355 South Grand Avenue, Suite 1750 Los Angeles, CA 90071-1562.

3. On November 20, 1991, the Board issued Physician's and Surgeon's Certificate No. G 72992 to Johnathan Richard Perry, M.D. (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. 800-2019-062233, and will expire on March 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-062233 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 July 30, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-062233 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-062233. 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. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2019-062233, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2019-062233, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. G 72992 to disciplinary action.

12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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.

ADDITIONAL PROVISIONS

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 agreements of the parties in the above-entitled matter.

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

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

DISCIPLINARY ORDER

1. PUBLIC REPRIMAND. IT IS HEREBY ORDERED THAT JOHNATHAN RICHARD PERRY, M.D., as holder of Physician's and Surgeon's Certificate No. G 72992, shall be and is hereby Publically Reprimanded pursuant to Business and Professions Code section 2227. The Public Reprimand is issued as a result of the following conduct by Respondent as set forth in Accusation No. 800-2019-062233. Respondent accepted a Stipulation to Informal Disposition regarding a Statement of Allegations and Summary of Evidence previously filed against Respondent by State of Washington Medical Quality Assurance Commission alleging that at a follow-up appointment after a shoulder surgery, Respondent failed to document or address a patient's complaints of leg swelling and pain, even though the surgery increased the patient's risk of deep vein thrombosis. Respondent further agrees to the following conditions as requirements for the issuance of this Public Reprimand:

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in 40 hours of education courses focusing on diagnosing and preventing complications after orthopedic surgeries. The educational program(s) or course(s) shall be aimed at correcting any area 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 submit a certification of successful completion to the Board or its designee not later than 365 calendar days after the effective date of the Decision.

3. 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 program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

4. 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.

5. 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. 800-2019-062233 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. 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: 6/28/2021

JOHNATHAN RICHARD PERRY, M.D.
Respondent

I have read and fully discussed with Respondent Johnathan Richard Perry, 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: 06.28.2021

DEREK F. O'REILLY-JONES, M.D.
Attorney for Respondent

ENDORSEMENT

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

DATED: 6-28-2021

Respectfully submitted,

ROB BONTA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

HAMSA M. MURTHY
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2019-062233

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
HAMSA M. MURTHY
Deputy Attorney General
State Bar No. 274745
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Telephone: (415) 510-3495
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E-mail: Hamsa.Murthy@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against: **Johnathan Richard Perry, M.D.** **6703 W Rio Grande Ave.** **Building B** **Kennewick, WA 99336** **Physician's and Surgeon's Certificate** **No. G 72992,** Respondent.	Case No. 800-2019-062233 **A C C U S A T I O N**

PARTIES

1. William Prasifka (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 November 20, 1991, the Medical Board issued Physician's and Surgeon's Certificate Number G 72992 to Johnathan Richard Perry, 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 March 31, 2021, unless renewed.

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 provides that the Board shall take action against any licensee who is charged with "unprofessional conduct," which includes but is not limited to, "[v]iolating . . . any provision of this chapter."

6. Section 2305 of the Code provides, in pertinent part, that the revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California, shall constitute grounds for disciplinary action for unprofessional conduct.

7. Section 141 of the Code provides:

> (a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.
>
> (b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

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FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

8. On August 22, 2019, the State of Washington Medical Quality Assurance Commission (Washington Commission) accepted a Stipulation to Informal Disposition (attached herewith as Exhibit A), regarding a Statement of Allegations and Summary of Evidence previously filed against Respondent (attached herewith as Exhibit B). The Washington Commission alleged that on July 31, 2015, at a follow-up appointment after a shoulder surgery, Respondent failed to document or address a patient's complaints of leg swelling and pain, even though the surgery increased the patient's risk of deep vein thrombosis. (Exhibit A at p. 1; Exhibit B at p.1.) A few days after the follow-up appointment, the patient was diagnosed with deep vein thrombosis and pulmonary embolism, two potentially life-threatening conditions. (*Ibid.*) Respondent and the Washington Commission chose to resolve the above matter by stipulation, and the Washington Commission accordingly forwent further disciplinary proceedings. (Exhibit A at p. 2.) In turn, Respondent agreed to a number of conditions, including: completing a continuing medical education program with a focus on identifying and treating deep vein thrombosis in orthopedic practice; submitting a scholarly paper with bibliography to the Washington Commission on the topic of deep vein thrombosis in orthopedic medicine, with particular discussion of how the foregoing incident will change Respondent's policies and procedures regarding the condition; appearing personally before the Washington Commission; and paying the Washington Commission the sum of $1,000.00 as partial reimbursement of the costs of investigating the matter concerning Respondent.

9. Respondent's alleged conduct with respect to his patient and the subsequent actions of the Washington Commission, as set forth in paragraph 8, above, and Exhibits A and B, attached, constitute cause for discipline, pursuant to section 2234 and/or section 2305 and/or section 141, subdivision (a) of the Code.

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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 Number G 72992, issued to Johnathan Richard Perry, M.D.;

2. Revoking, suspending or denying approval of Johnathan Richard Perry, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Johnathan Richard Perry, 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: JUL 30 2020

William Prasifka
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

Exhibit A
State of Washington Medical Quality Assurance Commission
Stipulation to Informal Disposition

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE COMMISSION

In the Matter of the License to Practice as a Physician and Surgeon of:	No. M2019-366
JOHNATHAN R. PERRY, MD License No. MD.MD.00034127 Respondent.	STIPULATION TO INFORMAL DISPOSITION

Pursuant to the Uniform Disciplinary Act, Chapter 18.130 RCW, the Medical Quality Assurance Commission (Commission) issued a Statement of Allegations and Summary of Evidence (Statement of Allegations) alleging the conduct described below. Respondent does not admit any of the allegations. This Stipulation to Informal Disposition (Stipulation) is not formal disciplinary action and shall not be construed as a finding of unprofessional conduct or inability to practice.

1. ALLEGATIONS

1.1 On August 19, 1996, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent is board certified in orthopedic sports medicine and orthopedic surgery. Respondent's license is currently active.

1.2 On or about July 22, 2015, Respondent performed a right shoulder surgery for a rotator cuff repair on Patient A. The surgery put Patient A at an elevated risk for developing deep vein thrombosis (DVT).

1.3 During a follow-up appointment on or about July 31, 2015, Respondent did not document or address complaints of patient leg pain and swelling. On or about August 3, 2015, the patient was diagnosed with DVT and a pulmonary embolism at an emergency room, both potentially life-threatening conditions.

2. STIPULATION

2.1 The Commission alleges that the conduct described above, if proven, would constitute a violation of RCW 18.130.180(4).

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2.2 The parties wish to resolve this matter by means of a Stipulation pursuant to RCW 18.130.172(1).

2.3 Respondent agrees to be bound by the terms and conditions of this Stipulation.

2.4 This Stipulation is of no force and effect and is not binding on the parties unless and until it is accepted by the Commission.

2.5 If the Commission accepts the Stipulation it will be reported to the National Practitioner Data Bank (45 CFR Part 60), the Federation of State Medical Boards' Physician Data Center and elsewhere as required by law.

2.6 The Statement of Allegations and this Stipulation are public documents. They will be placed on the Department of Health web site, disseminated via the Commission's electronic mailing list, and disseminated according to the Uniform Disciplinary Act (Chapter 18.130 RCW). They are subject to disclosure under the Public Records Act, Chapter 42.56 RCW, and shall remain part of Respondent's file according to the state's records retention law and cannot be expunged.

2.7 The Commission agrees to forgo further disciplinary proceedings concerning the allegations.

2.8 Respondent agrees to successfully complete the terms and conditions of this Informal disposition.

2.9 A violation of the provisions of Section 3 of this Stipulation, if proved, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

3. INFORMAL DISPOSITION

The Commission and Respondent stipulate to the following terms:

3.1 **Compliance Orientation.** Respondent shall complete a compliance orientation in person or by telephone within **sixty (60) days** of the effective date of this Stipulation. Respondent must contact the Compliance Unit at the Commission by calling (360) 236-2763, or by sending an email to: Medical.compliance@wmc.wa.gov within **twenty (20) days** of the effective date of this Stipulation. Respondent must provide a contact phone number where Respondent can be reached for scheduling purposes.

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3.2 **Continuing Medical Education (CME).** Within **ninety (90) days** of the effective date of this Stipulation, Respondent must complete a pre-approved CME course with a focus on identifying and treating DVT in an orthopedic practice. The free online CME course entitled *Deep Venous Thrombosis Prophylaxis in Orthopedic Surgery*[1] offered by Medscape.com is pre-approved. Respondent shall submit written proof of completion to:

Compliance Officer
Medical Quality Assurance Commission
P.O. Box 47866
Olympia, Washington 98504-7866

3.3 **Scholarly Paper.** Within **thirty (30) days** of completing the above CME course Respondent shall submit a 1,000 word paper with bibliography on identifying treating DVT in orthopedic cases and how this incident will change practice group policies and procedures with regard to warning patients about the risks of DVT, taking a thorough patient history, and documenting a post-operative lower extremity exam. Respondent should be prepared to discuss the subject matter of the written paper with the Commission at the initial personal appearance. The paper must be submitted to the Commission in both electronic and printed format to the addresses below:

1. Medical.compliance@wmc.wa.gov

2. Compliance Officer
   Medical Quality Assurance Commission
   P.O. Box 47866
   Olympia, Washington 98504-7866

3.4 **Personal Appearances.** Respondent must personally appear at a date and location determined by the Commission in approximately **nine (9) months** after the effective date of this Stipulation, or as soon thereafter as the Commission's schedule permits. Respondent must participate in a brief telephone call with the Commission's Compliance Unit prior to the appearance. The purpose of appearances is to provide meaningful oversight over Respondent's compliance with the requirements of this Stipulation. The Commission will provide reasonable notice of all scheduled appearances.

[1] https://emedicinc.medscape.com/article/1268573-overview

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3.5 **Cost Recovery**. Respondent must pay one thousand dollars ($1,000) to the Commission as partial reimbursement of some of the costs of investigating and processing this matter. Payment must be by certified or cashier's check made payable to the Department of Health and must be received within **ninety (90) days** of the effective date of this Stipulation. Respondent must send payment to:

Medical Quality Assurance Commission
Department of Health
P.O. Box 1099
Olympia, Washington 98504-1099

3.6 **Self-Reporting.** Respondent shall report in writing by e-mail to medical.compliance@wmc.wa.gov within **thirty (30) days** of the occurrence of any of the following events:

a. Denial, restriction, suspension, or revocation of any healthcare-related license for the Respondent in another state;

b. Denial, restriction, suspension, or revocation of privileges for the Respondent in any healthcare facility;

c. Any felony or gross misdemeanor charge against the Respondent; and

d. The filing of a complaint in superior court or federal district court against Respondent alleging negligence or request for mediation pursuant to chapter 7.70 RCW.

This requirement supplements and does not supersede the reporting obligations imposed by WAC 246-919-700, *et seq.* and WAC 246-16-230.

3.7 **Demographic Census.** Washington law requires physicians and physician assistants to complete a demographic census with their license renewal. RCW 18.71.080(1)(b) and 18.71A.020(4)(b). Respondent must submit a completed demographic census to the Commission within **thirty (30) days** of the effective date of this Stipulation. The demographic census can be found here: wmc.wa.gov/licensing/renewals/demographic-census.

3.8 **Obey Laws.** Respondent must obey all federal, state and local laws and all administrative rules governing the practice of the profession in Washington.

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3.9 **Costs.** Respondent must assume all costs that Respondent incurs in complying with this Stipulation.

3.10 **Violations.** If Respondent violates any provision of this Stipulation in any respect, the Commission may initiate further action against Respondent's license.

3.11 **Change of Address or Name.** Respondent must inform the Commission and the Adjudicative Clerk Office in writing of changes in Respondent's name and residential and/or business address within thirty (30) days of such change.

3.12 **Effective Date.** The effective date of this Stipulation is the date the Adjudicative Clerk Office places the signed Stipulation into the U.S. mail. If required, Respondent shall not submit any fees or compliance documents until after the effective date of this Stipulation.

3.13 **Termination of Stipulation.** Respondent may petition the Commission in writing to terminate this Stipulation after completion of all terms and conditions. The Commission has the discretion as to whether to grant or deny the petition to terminate. If the Commission denies a petition to terminate, Respondent may petition again after an interval determined by the Commission.

4. COMPLIANCE WITH SANCTION RULES

4.1 The Commission applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions, including stipulations to informal disposition under RCW 18.130.172., Tier A of the "Practice Below Standard of Care" schedule, WAC 246-16-810, applies to cases where substandard practices resulted in minimal patient harm or risk of harm. Respondent's care of Patient A caused minimal harm in that the patient's discomfort was not treated until a more serious complication presented itself.

4.2 Tier A requires the imposition of sanctions ranging from zero years of oversight to three years of oversight, unless revocation. Under WAC 246-16-800(3)(d), the starting point for the duration of the sanctions is the middle of the range. The Commission uses aggravating and mitigating factors to move towards the maximum or minimum ends of the range.

4.3 While the ultimate duration of this Stipulation is undetermined to allow the Respondent time to complete the requirements of the Stipulation, the Respondent may petition to terminate after completion of the terms and conditions of the Stipulation,

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placing the duration potentially at the shorter end of the range. The mitigating factors in this case, listed below, justify moving toward the minimum end of the range. The sanctions in this case include completion of a CME course, a paper, a personal appearance, partial cost recovery, and other terms designed to protect the public and provide meaningful oversight.

4.4 These sanctions are appropriate within the Tier A range given the alleged facts of the case, the Commission finding no aggravating factors, and the below mitigating factors:

Mitigating:

- Respondent has been practicing since 1996 with no prior disciplinary action.
- Respondent cooperated with the Commission's investigation.

5. RESPONDENT'S ACCEPTANCE

I, JOHNATHAN R. PERRY, MD, Respondent, certify that I have read this Stipulation in its entirety; that my counsel of record, CHRISTOPHER J. MERTENS, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my appearance. If the Commission accepts the Stipulation, I understand that I will receive a signed copy.

John R. Perry, MD — 7/25/2019

JOHNATHAN R. PERRY, MD
RESPONDENT

DATE

7/25/19

CHRISTOPHER J. MERTENS, WSBA NO. 13591
ATTORNEY FOR RESPONDENT

DATE

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6. COMMISSION'S ACCEPTANCE

The Commission accepts this Stipulation. All parties shall be bound by its terms and conditions.

DATED: August 22, 2019

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE COMMISSION

PANEL CHAIR

PRESENTED BY:

TRISHA WOLF, WSBA NO. 48118
COMMISSION STAFF ATTORNEY

I certify that this is a true and correct copy of the original document on file with the Washington Department of Health

Michael J. Kramer

Date 12-16-19

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Exhibit B
State of Washington Medical Quality Assurance Commission
Statement of Allegations and Summary of Evidence

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE COMMISSION

FILED
AUG 23 2019
Adjudicative Clerk Office

In the Matter of the License to Practice as a Physician and Surgeon of: JOHNATHAN R. PERRY, MD License No. MD.MD.00034127 Respondent.	No. M2019-366 STATEMENT OF ALLEGATIONS AND SUMMARY OF EVIDENCE

The Executive Director of the Medical Quality Assurance Commission (Commission), on designation by the Commission, makes the allegations below, which are supported by evidence contained in Commission file number 2018-5735. The patient referred to in this Statement of Allegations and Summary of Evidence is identified in the attached Confidential Schedule.

1. ALLEGATIONS

1.1 On August 19, 1996, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent is board certified in orthopedic sports medicine and orthopedic surgery. Respondent's license is currently active.

1.2 On or about July 22, 2015, Respondent performed a right shoulder surgery for a rotator cuff repair on Patient A. The surgery put Patient A at an elevated risk for developing deep vein thrombosis (DVT).

1.3 During a follow-up appointment on or about July 31, 2015, Respondent did not document or address complaints of patient leg pain and swelling. On or about August 3, 2015, the patient was diagnosed with DVT and a pulmonary embolism at an emergency room, both potentially life-threatening conditions.

2. SUMMARY OF EVIDENCE

2.1 Complaint filed March 24, 2018 and supporting documents.

2.2 Patient A Medical Records.

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3. ALLEGED VIOLATIONS

3.1 The facts alleged in Section 1, if proven, would constitute unprofessional conduct in violation of RCW 18.130.180(4) which provides in part:

> **RCW 18.130.180 Unprofessional conduct.** The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:
>
> ...
>
> (4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;
>
> ... .

4. NOTICE TO RESPONDENT

4.1 The Commission has determined that this case may be appropriate for resolution through a Stipulation to Informal Disposition (Stipulation) pursuant to RCW 18.130.172(2). A proposed Stipulation is attached, which contains the disposition the Commission believes is necessary to address the conduct alleged in this Statement of Allegations and Summary of Evidence.

4.2 If Respondent agrees that the disposition imposed by the Stipulation is appropriate, Respondent should sign and date the Stipulation and return it within **twenty-eight (28) days** to the Medical Quality Assurance Commission at P.O. Box 47866, Olympia, Washington 98504-7866.

4.3 If Respondent does not agree that the terms and conditions contained in the Stipulation are appropriate, Respondent should contact Trisha Wolf, Staff Attorney for the Medical Quality Assurance Commission, P.O. Box 47866, Olympia, Washington 98504-7866, (360) 236-2791 within **twenty-eight (28) days.**

4.4 If Respondent does not respond within **twenty-eight (28) days**, the Commission will assume Respondent has declined to resolve the allegations by means of a Stipulation.

4.5 If Respondent declines to resolve the allegations by means of a Stipulation pursuant to RCW 18.130.172(2), the Commission may proceed to formal disciplinary

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action against Respondent by filing a Statement of Charges, pursuant to RCW 18.130.172(3).

4.6 The cover letter enclosed with this Statement of Allegations and Summary of Evidence was mailed to the name and address currently on file for Respondent's license. Respondent must notify, in writing, the Commission if Respondent's name and/or address changes.

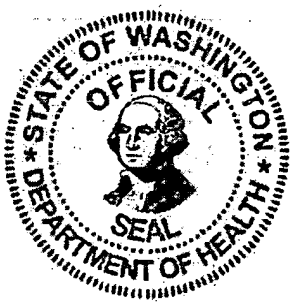
DATED: 6/27/19

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE COMMISSION

on behalf of MDL

MELANIE DE LEON
EXECUTIVE DIRECTOR

TRISHA WOLF, WSBA NO. 48118
COMMISSION STAFF ATTORNEY



I certify that this is a true and correct copy of the original document on file with the Washington Department of Health

Michael J. Kramer

Date: 12-16-19

ORIGINAL

CONFIDENTIAL SCHEDULE

This information is confidential and is NOT to be released without the consent of the individual or individuals named herein. RCW 42.56.240(1)

Patient A [redacted]

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