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

In the Matter of the Accusation Against: Alfred Bernard Johnson, M.D. Physician's and Surgeon's Certificate No. G 88950 Respondent.	Case No.: 800-2018-047469

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 December 24, 2021.

IT IS SO ORDERED: November 24, 2021.

MEDICAL BOARD OF CALIFORNIA

Laurie Rose Lubiano, J.D., Chair
Panel A

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
SARAH J. JACOBS
Deputy Attorney General
State Bar No. 255899
California Department of Justice
2550 Mariposa Mall, Room 5090
Fresno, CA 93721
Telephone: (559) 705-2312
Facsimile: (559) 445-5106
Attorneys for Complainant

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

In the Matter of the Accusation Against: **ALFRED BERNARD JOHNSON, M.D.** **315 Mercy Avenue, Suite 400** **Merced, CA 95340** **Physician's and Surgeon's Certificate No. G 88950** Respondent.	Case No. 800-2018-047469 OAH No. 2020110634 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Medical Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

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 Sarah J. Jacobs, Deputy Attorney General.

2. Respondent Alfred Bernard Johnson, M.D. (Respondent) is represented in this proceeding by attorney Gregory Abrams, whose address is: 6045 Shirley Drive, Oakland, CA 94611.

3. On or about June 1, 2011, the Board issued Physician's and Surgeon's Certificate No. G 88950 to Alfred Bernard 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 in Accusation No. 800-2018-047469, and will expire on December 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-047469 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 September 18, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-047469 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. 800-2018-047469. 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.

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

CULPABILITY

9. 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. 800-2018-047469, 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 88950 to disciplinary action.

10. 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. 800-2016-020833 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.

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

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order 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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13. 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.

14. 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. G 88950 issued to Respondent Alfred Bernard Johnson, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

1. 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.

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2. 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(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), 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 shall 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(s) 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.

3. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting 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. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent

shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, 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. The Respondent shall not resume practice until an appropriate practice setting is established.

4. 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.

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

6. 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.

7. 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.

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8. 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.

9. 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.

10. 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's 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 a 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..

11. 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. Upon successful completion of probation, Respondent's certificate shall be fully restored.

12. 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.

13. 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.

14. 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.

15. 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. 800-2018-047469 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, Gregory Abrams. 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: 7/15/2021

ALFRED BERNARD JOHNSON, M.D.
Respondent

I have read and fully discussed with Respondent Alfred Bernard 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: 7/15/2021

GREGORY ABRAMS
Attorney for Respondent

ENDORSEMENT

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

DATED: 7/16/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General

SARAH J. JACOBS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-047469

XAVIER BECERRA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
SARAH J. JACOBS
Deputy Attorney General
State Bar No. 255899
2550 Mariposa Mall, Room 5090
Fresno, CA 93721
Telephone: (559) 705-2312
Facsimile: (559) 445-5106

Attorneys for Complainant

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

In the Matter of the Accusation Against: **Alfred Bernard Johnson, M.D.** **315 Mercy Avenue, Suite 400** **Merced, CA 95340** **Physician's and Surgeon's Certificate No. G 88950,** Respondent.	Case No. 800-2018-047469 **ACCUSATION**

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 or about June 1, 2011, the Medical Board issued Physician's and Surgeon's Certificate No. G 88950 to Alfred Bernard Johnson, M.D. (Respondent). Physician's and Surgeon's Certificate No. G 88950 was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2020, 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 states, in pertinent part:

> (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.
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> ....

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:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
>
> (2) When the standard of care requires a change in the diagnosis, act, or

omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the

licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

....

6. 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.

FIRST CAUSE FOR DISCIPLINE
(Gross Negligence)

7. Respondent has subjected his Physician's and Surgeon's Certificate No. G 88950 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 Patient A,[1] as more particularly alleged hereafter:

8. On or about June 23, 2018, Patient A, a 38-year old paraplegic male, presented to the hospital with emesis and black, tarry stools. On or about June 24, 2018, the patient underwent an esophagogastroduodenoscopy, a procedure that examines the esophagus, stomach and first portion of the duodenum (small intestine) using a long flexible tube with a camera. The procedure showed a nonbleeding duodenal ulcer in the duodenal bulb. On or about June 26, 2018, Patient A was discharged.

9. On or about June 27, 2018, Patient A returned to the hospital with a recurrence of the gastrointestinal bleed and hemodynamic instability, or abnormal or unstable blood pressure. His symptoms included hematemesis, vomiting blood. On or about the same day, Respondent provided a surgical consult. His plan was for a robotic truncal vagotomy, a surgical operation in which one or more branches of the vagus nerve are cut, and then a pyloroplasty, a surgical procedure to widen the opening in the pylorus, or the lower part of the stomach.

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[1] Letters are used to protect the patients' privacy. Respondent is aware of the patients' identities.

10. On or about June 27, 2018, Respondent performed the planned surgeries. His documented intraoperative findings included numerous dark blood clots in the stomach. There were no complications noted for the procedures.

11. On post-operative day three, Patient A developed tachycardia, acute abdominal pain, an elevated white blood cell count (WBC), and fever. On or about June 30, 2018, a CT scan of Patient A's abdomen showed a large pneumoperitoneum, presence of air or gas in the abdominal cavity, possibly indicating perforation.

12. On or about June 30, 2018, another physician performed a diagnostic laparotomy on Patient A. The physician noted a five to six millimeter (mm) dehiscence, a surgical complication where the ends of a wound no longer meet at the pyloroplasty line. During this procedure, the pyloroplasty was oversewn with a Graham patch[2] repair. Patient A had post-operative acute respiratory failure requiring intubation, and was sent to the Intensive Care Unit (ICU).

13. From on or about July 1, 2018 through July 8, 2018, Patient A had pneumonia. He underwent multiple bronchoscopies, wherein a scope was inserted into the lungs through the nose or mouth to treat blockages; his left lung completely collapsed.

14. On or about July 5, 2018, Patient A was extubated.

15. On or about July 8, 2018, Patient A started bleeding again. Respondent performed an exploratory laparotomy on Patient A due to the bleeding duodenal ulcer and hemodynamic changes. He performed an antrectomy, surgical removal of the antrum of the stomach, and a Billroth II gastrojejunostomy.[3] In his operative report, Respondent noted "a large vessel at the posterior aspect of the ulcer bed within the duodenal bulb, which was densely adherent to the head of the pancreas."

16. From on or about July 8, 2018 through July 14, 2018, Patient A continued to recover in the hospital. On or about July 14, 2018, Patient A's operative drains were draining bilious material, suggesting a possible enteric leak of the duodenal bulb. On or about the same day,

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[2] A Graham patch is a surgical technique that is used to close duodenal perforations.

[3] A Billroth II gastrojejunostomy is the partial removal of the stomach where the greater curvature of the stomach is connected to the first part of the jejunum in an end-to-end anastomosis.

another physician performed another exploratory laparotomy on Patient A to repair a perforation and oversew the duodenal ulcer. The physician found a leak in the proximal duodenal suture line from the surgery on July 8, 2018.

17. From on or about July 14, 2018 through July 30, 2018, Patient A suffered post-operative complications that included line sepsis and clostridium difficile. On or about July 30, 2018, Patient A was discharged to a long-term acute care facility.

18. Respondent committed gross negligence in his care and treatment of Patient A which includes, but is not limited to, the following:

a. Respondent failed to properly identify and address Patient A's life-threatening ongoing and future risk of gastrointestinal hemorrhage; and

b. Respondent inappropriately opted for a robotic approach for the initial vagotomy and pyloroplasty which led to the dehiscence at the pyloroplasty line.

SECOND CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

19. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 88950 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 hereafter:

Patient A

20. Paragraphs 8 through 19, above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

Patient B

21. On or about June 13, 2018, Patient B, a 57-year old female, presented to the emergency department for abdominal pain and nausea. Patient B had a history of surgical hernia repair, hypertension, and pulmonary embolism. A CT scan of her abdomen and pelvis showed pronounced small bowel distention, suggesting a small bowel obstruction. Patient B was admitted to the hospital for further treatment.

22. On or about June 13, 2018, Respondent examined Patient B for a surgical consult. He noted that Patient B had an open Roux-en-Y gastric bypass in the past with some complications in the immediate post-operative period. Patient B had recovered and was fine for a number of years until she received blunt trauma to the abdomen in a car accident. Following the accident, Patient B noticed that her abdomen was swelling. Respondent documented that the abdominal CT scan showed a small bowel obstruction and a large recurrent ventral hernia. His plan was to perform a robotic ventral hernia repair.

23. From on or about June 14, 2018 through June 17, 2018, Patient B was monitored at the hospital. The medication prescribed to treat her pulmonary embolism was discontinued and she was placed on IV fluids and clear liquids.

24. On or about June 18, 2018, Respondent performed the planned surgery. In his operative report, he noted a 15 x 10 centimeter (cm) midline fascial defect. He also documented that the transverse colon was densely incarcerated and that there were multiple adhesions or scar tissues between the omentum, small bowel, and anterior abdominal wall. Respondent dissected the adhesions using robotic shears and electrocautery. He identified the fascial defect, found additional loops of transverse colon that were incarcerated within the fascial defect, then released the colon from the skin of the anterior abdominal wall. Respondent tried to start fascial closure, but due to difficulties, decided to convert the procedure from robotic to open. Following the procedure, Patient B was transferred to the Post-Anesthesia Care Unit.

25. From on or about June 19, 2018 through June 22, 2018, Patient B had a relatively uneventful recovery in the hospital. Respondent cleared her for discharge and Patient B left the hospital on or about June 22, 2018.

26. One week later, on or about June 29, 2018, Patient B returned to the hospital. She complained of generalized abdominal pain, nausea, vomiting, diarrhea and chills for two days. A CT scan of her abdomen taken that day showed increasing distention of the small bowel loops in the left abdomen, consistent with a small bowel obstruction with fecalization of intraluminal contents suggesting a high-grade closed loop obstruction. The CT scan also showed two small subcutaneous fluid collections near the surgical incision and a larger intraperitoneal collection,

possibly a hematoma[4] and/or abscess. Patient B was admitted to the hospital for further treatment.

27. On or about June 29, 2018, Respondent saw Patient B in the hospital. He noted the CT scan findings and his plan was for conservative treatment through fluid hydration, analgesics and clear liquids.

28. From on or about June 30, 2018 through July 4, 2018, Patient B continued to get better. On or about July 4, 2018, another abdominal CT scan showed two fluid collection areas that appeared to be seromas[5] or hematomas. On or about the same day, 190 milliliters (mL) of fluid were removed by CT-guided needle placement along the left anterior aspect of the lower abdomen and pelvis. Patient B was discharged from the hospital on or about the same day.

29. Twelve days later, on or about July 16, 2018, Patient B returned to the hospital. She complained of three days of abdominal pain and chills. An abdominal CT scan showed a post-procedural intra-abdominal abscess. Patient B was admitted to the hospital on or about the same day.

30. On or about July 17, 2018, Patient B underwent a procedure in which a drainage catheter was placed in the abdominal wall fluid collection with CT guidance. Approximately 60 mL of fluid was removed and sent to the lab.

31. On or about July 18, 2018, Respondent saw Patient B in the hospital. He noted no evidence of obstruction or intra-abdominal fluid and a normal WBC. He wrote that Patient B was cleared for discharge once the catheter was discontinued by radiology.

32. Respondent committed a negligent act in his care and treatment of Patient B which includes, but is not limited to, opting for a robotic approach for a semi-urgent hernia repair given Respondent's inexperience with robotic techniques.

Patient C

33. On or about May 31, 2018, Patient C, a 58-year old female, presented to the hospital with increasing abdominal pain and swelling. She had a significant surgical history of an

[4] A hematoma is localized bleeding outside of blood vessels.
[5] A seroma is a collection of fluid that builds up under the skin's surface.

umbilical hernia repair approximately 15 years prior and reported worsening pain. An abdominal CT scan showed a large left peri-umbilical hernia containing a long segment of non-obstructed small bowel. Patient C was admitted to the hospital for further treatment.

34. On or about May 31, 2018, Respondent evaluated Patient C. Respondent scheduled Patient C for a robotic ventral hernia repair the next morning. On about the same day, Patient C received cardiac clearance for surgery.

35. On or about June 1, 2018, Respondent performed the surgical procedure on Patient C. In his operative report, he noted a seven centimeter left peri-umbilical fascial defect with extensive incarceration of the omentum and dense omental adhesions to the anterior abdominal wall surrounding the defect. Respondent took down the adhesions using endoscopic scissors and electrocautery. He reduced the omentum from the defect, closed the defect with sutures, and placed mesh in the peritoneal cavity.

36. Following the procedure, Patient C had an unremarkable post-operative recovery, and was discharged from the hospital on or about June 2, 2018.

37. On or about June 28, 2018, Patient C returned to the hospital. She complained of skin warmth, redness, swelling, cough, and vomiting clear liquid. Patient C reported that she had seen Respondent in his office on or about June 26, 2018. An abdominal CT scan showed a loculated abscess extending deep within the mesh and intra-abdominal cavity. Patient C was admitted to the hospital for further treatment.

38. On or about June 28, 2018, Respondent saw Patient C in the hospital. He noted that Patient C had worsening pain starting the day prior and noted the CT scan results. His assessment was a possible infected seroma, a collection of fluid that builds up under the surface of the skin. His plan was to continue IV antibiotics and to drain the fluid.

39. On or about June 29, 2018, Patient C refused to submit to a CT-guided abscess drainage because of anxiety. She eventually agreed to a bedside aspiration which was done by Respondent on or about the same day. Respondent drained approximately 100 mL of pink, purulent fluid which was sent to the lab.

40. Two days later, on or about July 1, 2018, another physician saw Patient C in the hospital. The physician noted that cultures from the wound showed gram-positive cocci. The physician documented that Patient C refused to have the CT-guided abscess drainage and that Patient C wanted surgical drainage of the abscess. The physician further noted that a radiologist refused to perform an ultrasound-guided drainage due to the complexity of the abscess. The physician told Patient C that her abscess needed to be drained. Patient C could not be taken into surgery because she had already eaten that day. The physician's plan was to order no food or liquids after midnight in case Respondent wanted to take Patient C into surgery the following day.

41. On or about July 2, 2018, Respondent saw Patient C. He noted that she had a normal WBC, and that she was approved for discharge with antibiotics. Respondent failed to document his rationale for discharging Patient C without further drainage of the abscess.

42. Respondent committed a negligent act in his care and treatment of Patient C which includes, but is not limited to, failing to adequately and accurately document his rationale for disregarding the second physician's progress note in which Patient C requested surgical drainage.

THIRD CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate and Accurate Records)

43. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 88950 to disciplinary action under sections 2227 and 2234, as defined by section 2266, in that Respondent failed to maintain adequate and accurate records for Patient C, as more particularly alleged in paragraphs 33 through 42, above, which 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 of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. G 88950, issued to Respondent Alfred Bernard Johnson, M.D.;

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

3. Ordering Respondent Alfred Bernard Johnson, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: SEP 18 2020

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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