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

In the Matter of the Accusation Against:	)	
JEFFERSON OCHSNER JANES, M.D.	)	**Case No. 800-2018-048083**
Physician's and Surgeon's Certificate No. G 23520	)	
Respondent	)	

DECISION

The attached Stipulated Surrender of License 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 20, 2019 **.**

IT IS SO ORDERED December 13, 2019**.**

MEDICAL BOARD OF CALIFORNIA

Christine J. Lally
Interim Executive Director

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
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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: **JEFFERSON OCHSNER JANES, M.D.** **PO Box 1249** **Nevada City, CA 95959** **Physician's and Surgeon's Certificate** **No. G 23520** Respondent.	Case No. 800-2018-048083 **STIPULATED SURRENDER OF LICENSE 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. Christine J. Lally (Complainant) is the Deputy Director of the Medical Board of California (Board). This action was brought by then Complainant Kimberly Kirchmeyer solely in her official capacity.[1] Complainant is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Aaron L. Lent, Deputy Attorney General.

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[1] Ms. Kirchmeyer became the Director of the the Department of Consumer Affairs on October 28, 2019.

2. Jefferson Ochsner Janes, M.D. (Respondent) is represented in this proceeding by attorney Gregory Klein, whose address is: 401 Spring Street Nevada City, CA 95959.

3. On or about October 11, 1972, the Board issued Physician's and Surgeon's Certificate No. G 23520 to Jefferson Ochsner Janes, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on June 30, 2016, and has not been renewed.

JURISDICTION

4. Accusation No. 800-2018-048083 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 23, 2019. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2018-048083 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-048083. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Disciplinary Order.

6. 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.

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2018-048083, agrees that cause exists for discipline and hereby surrenders his Physician's and Surgeon's Certificate No. G 23520 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, 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 Surrender 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.

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

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 23520, issued to Respondent Jefferson Ochsner Janes, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline

against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Disciplinary Order.

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2018-048083 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. 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 agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2018-048083 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 licensure.

ACCEPTANCE

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

DATED: 11/25/19

JEFFERSON OCHSNER JANES, M.D.
Respondent

I have read and fully discussed with Respondent Jefferson Ochsner Janes, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Disciplinary Order. I approve its form and content.

DATED: 12/3/19

GREGORY KLEIN
Attorney for Respondent

ENDORSEMENT

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

DATED: 12-10-19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

AARON L. LENT
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-048083

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Sept 23 2019
BY _____ ANALYST

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

In the Matter of the Accusation Against:	Case No. 800-2018-048083
Jefferson Ochsner Janes, M.D. **PO Box 1249** **Nevada City, CA 95959** **Physician's and Surgeon's Certificate No. G 23520,** Respondent.	**ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about October 11, 1972, the Medical Board issued Physician's and Surgeon's Certificate No. G 23520 to Jefferson Ochsner Janes, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on June 30, 2016, and has not been 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:

"(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."

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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. [Chapter 5, the Medical Practice Act].

"..."

6. Section 2236 of the Code states, in pertinent part:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"...

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

7. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this

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section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

"(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality[1] may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."[2]

8. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

FIRST CAUSE FOR DISCIPLINE

(Use of Alcoholic Beverages to the Extent, or in a Manner, as to be Dangerous to Respondent, Another Person or the Public)

9. Respondent Jefferson Ochsner Janes, M.D., has subjected his Physician's and Surgeon's Certificate No. G 23520 to disciplinary action under 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that he has used alcoholic beverages to the extent, or

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[1] California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Bus. & Prof. Code, §§ 2000, *et seq.*) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

[2] There is a nexus between a physician's use of alcoholic beverages and his or her fitness to practice medicine, established by the Legislature in section 2239, "in all cases where a licensed physician used alcoholic beverages to the extent or in such a manner as to pose a danger to himself or others." (*Watson v. Superior Court* (*Medical Board*) (2009) 176 Cal.App.4th 1407, 1411.)

in such a manner, as to be dangerous or injurious to himself, another person, or the public, as more particularly alleged hereinafter:

October 15, 2018 Conviction of Cal. Vehicle Code §23152(b) & §23578

10. On or about July 13, 2018, at approximately 1:13 a.m., Nevada County Sheriff Deputy D. M. was on routine patrol when he observed Respondent driving a motor vehicle with an inoperable headlight. Deputy D. M. initiated a traffic stop on the motor vehicle and contacted the Respondent. During Deputy D. M.'s contact with the Respondent, he immediately noticed a strong odor of an alcoholic beverage emanating from the Respondent. When asked how much alcohol the Respondent had consumed that evening, Respondent insisted he had not consumed any alcohol. When asked to provide Deputy D. M. with his driver's license, Respondent handed the deputy a credit card. Deputy D. M. attempted to check Respondent for nystagmus, however, Respondent continued moving his head and would not correctly follow instructions. Deputy D. M. contacted the local California Highway Patrol (CHP) to assist in the investigation.

11. When CHP Officer J. H. arrived at the scene of the Respondent and Deputy D. M., he again asked the Respondent how much alcohol the Respondent had consumed that evening, to which the Respondent said that he had not consumed any alcohol. CHP Officer J. H. conducted a series of field sobriety tests including a preliminary alcohol screening test where the Respondent provided two breath samples which yielded results of 0.215% and 0.215% blood alcohol content.

12. CHP Officer J. H. placed the Respondent under arrest on suspicion of driving a motor vehicle under the influence of alcohol (DUI). At approximately 2:28 a.m., two breath samples were obtained from Respondent, which registered his blood alcohol content to be 0.21%, and 0.21%, respectively.

13. On or about August 7, 2018, the Nevada County District Attorney filed a criminal complaint against the Respondent in the matter entitled, *The People of the State of California v. Jefferson Oschner Janes*, Nevada County Superior Court Case No. M18-001110. On or about October 15, 2018, Respondent was convicted upon his plea of guilty to count two of the complaint, i.e. driving a motor vehicle with a blood alcohol content at or above 0.08% in violation of California Vehicle Code §23152, subdivision (b); in addition to admitting the special

allegation of count two in that Respondent's blood alcohol content was at or above 0.15% in violation of California Vehicle Code §23578. On or about October 15, 2018, the Superior Court sentenced the Respondent to probation, subject to various terms and conditions.

June 18, 2019 Conviction of Cal. Vehicle Code §23152(b) & §23578 & §23540

14. On or about January 10, 2019, at approximately 1:06 p.m., CHP Officer B. E. was on routine patrol when he was dispatched to a single vehicle injury traffic collision. Once Officer B. E. arrived at the scene of the collision, he observed the Respondent standing next to a damaged motor vehicle that had been driven off a dirt embankment. Officer B. E. contacted the Respondent who admitted to driving the vehicle. During this contact, Officer B. E. noticed an odor of an alcoholic beverage emanating from his person. Officer B. E. noted that Respondent's eyes were glossy and red and that his speech was slow and slurred. When asked how much alcohol the Respondent had consumed that evening, Respondent insisted he had not consumed any alcohol or medication. Officer B. E. conducted a series of field sobriety tests including a preliminary alcohol screening test where the Respondent provided two breath samples which yielded results of 0.224% and 0.217% blood alcohol content.

15. Officer B. E. placed the Respondent under arrest on suspicion of driving a motor vehicle under the influence of alcohol (DUI). At approximately 2:23 p.m., two breath samples were obtained from Respondent, which registered his blood alcohol content to be 0.20%, and 0.21%, respectively.

16. On or about January 29, 2019, the Placer County District Attorney filed a criminal complaint against the Respondent in the matter entitled, *The People of the State of California v. Jefferson Oschner Janes*, Placer County Superior Court Case No. 62-164804. On or about June 18, 2019 Respondent was convicted upon his plea of nolo contendere to count two of the complaint, i.e. driving a motor vehicle with a blood alcohol content at or above 0.08% in violation of California Vehicle Code §23152, subdivision (b); in addition to admitting the special allegations of count two in that Respondent's blood alcohol content was at or above 0.15% in violation of California Vehicle Code §23578 and, that Respondent was convicted of a prior DUI offense in violation of California Vehicle Code §23540, subdivision (a). On or about June 18,

2019, the Superior Court sentenced the Respondent to probation, subject to various terms and conditions.

SECOND CAUSE FOR DISCIPLINE

(More than One Misdemeanor Conviction Involving the Use of Alcohol)

17. Respondent Jefferson Ochsner Janes, M.D., has subjected his Physician's and Surgeon's Certificate No. G 23520 to disciplinary action under 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that he has suffered more than one misdemeanor conviction involving the use of alcohol, as more particularly alleged in paragraphs 9 through 16, above, which are hereby incorporated by reference as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a Physician and Surgeon)

18. Respondent Jefferson Ochsner Janes, M.D., has subjected his Physician's and Surgeon's Certificate No. G 23520 to disciplinary action under 2227 and 2234, as defined by section 2236, subdivision (a), of the Code, in that he has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged in paragraphs 9 through 17, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. G 23520, issued to Jefferson Ochsner Janes, M.D.;

2. Revoking, suspending or denying approval of Jefferson Ochsner Janes, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Jefferson Ochsner Janes, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: September 23, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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