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FILED

JUL 14 2016

**OSTEOPATHIC MEDICAL BOARD
OF CALIFORNIA**

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

13 In the Matter of the Accusation Against:

Case No. 00-2013-003759

14
15 **BENNIE S. JOHNSON, D.O.**
16 **227 N. El Camino Real, # 204A**
Encinitas, CA 92024

ACCUSATION

17 **Osteopathic Physician's and Surgeon's**
18 **Certificate No. 20A11324,**

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

23 1. Angelina M. Burton (Complainant) brings this Accusation solely in her official
24 capacity as the Executive Director of the Osteopathic Medical Board of California.

25 2. On or about July 30, 2010, the Osteopathic Medical Board of California (Board)
26 issued Osteopathic Physician's and Surgeon's Certificate No. 20A11324 to Bennie S. Johnson,
27 D.O. (respondent). The Osteopathic Physician's and Surgeon's Certificate No. 20A11324 was in
28 full force and effect at all times relevant to the charges brought herein and will expire on

1 November 30, 2017, unless renewed.

2 JURISDICTION

3 3. This Accusation is brought before the Board, under the authority of the following
4 laws. All section references are to the Business and Professions Code (Code) unless otherwise
5 indicated.

6 4. Section 3600 of the Code states:

7 "The law governing licentiates of the Osteopathic Medical Board of California is found in
8 the Osteopathic Act and in Chapter 5 of Division 2, relating to medicine."

9 5. Section 3600-2 of the Code states:

10 "The Osteopathic Medical Board of California shall enforce those portions of the Medical
11 Practice Act identified as Article 12 (commencing with Section 2220), of Chapter 5 of Division 2
12 of the Business and Professions Code, as now existing or hereafter amended, as to persons who
13 hold certificates subject to the jurisdiction of the Osteopathic Medical Board of California,
14 however, persons who elect to practice using the term or suffix "M.D." as provided in Section
15 2275 of the Business and Professions Code, as now existing or hereafter amended, shall not be
16 subject to this section, and the Medical Board of California shall enforce the provisions of the
17 article as to persons who make the election. After making the election, each person so electing
18 shall apply for renewal of his or her certificate to the Medical Board of California, and the
19 Medical Board of California shall issue renewal certificates in the same manner as other renewal
20 certificates are issued by it."

21 6. Section 2227 of the Code states:

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

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

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

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

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

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

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

13 7. Section 2234 of the Code, states:

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

17 “... .

18 “(b) Gross negligence.

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

22 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
23 for that negligent diagnosis of the patient shall constitute a single negligent act.

24 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
25 constitutes the negligent act described in paragraph (1), including, but not limited to, a
26 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
27 applicable standard of care, each departure constitutes a separate and distinct breach of the
28 standard of care.

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8. Section 480 of the Code states, in pertinent part:

"A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"..."

(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

"..."

9. Unprofessional conduct under Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine.

(*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent has subjected his Osteopathic Physician's and Surgeon's Certificate No. 20A11324 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of patients R.K., M.K., N.H., and D.K., as more particularly alleged herein:

12. Respondent started working at pH Miracle Center, located in Valley Center, California (pH Miracle Center) in or around June 2012.

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1 Patient R.K.

2 13. Prior to receiving medical care at pH Miracle Center, patient R.K. had been
3 diagnosed with right breast cancer in or around August 2012 and has had a lumpectomy.¹

4 14. On or about August 27, 2012, patient R.K. began receiving medical care at pH
5 Miracle Center. Respondent failed to obtain a thorough history or conduct a complete physical
6 examination, before initiating treatment on patient R.K.

7 15. During treatment of patient R.K., respondent failed to obtain a history or conduct
8 physical examinations, periodically.

9 16. On or about August 27, 2012, respondent ordered and/or directed and/or approved
10 administration of a full body medical diagnostic ultrasound and thermography on patient R.K.
11 Based on the results of the August 27, 2012, full body medical diagnostic ultrasound and
12 thermography, respondent made the following recommendations, among others:

13 a) Breast Ultrasound;

14 b) Abdominal and Pelvic Ultrasound;

15 c) Colon, gallbladder, and liver cleanses;

16 d) Proper hydration and exercise; and

17 e) Consultation with a qualified health care professional on environmental, lifestyle,
18 and nutritional practices to support breast health and consideration of preventative
19 treatment.

20 17. On or about August 27, 2012, respondent ordered and/or directed and/or approved
21 administration of bilateral lower extremity venous ultrasound, bilateral lower extremity arterial
22 ultrasound, bilateral breast ultrasound, and carotid ultrasound on patient R.K.

23 18. On or about August 29, 2012, respondent ordered and/or directed and/or approved
24 administration of Intravenous therapy (IV therapy) on patient R.K. Respondent prescribed 50 mL
25 of Sodium Bicarbonate, 10 mL of Magnesium Chloride, and 5 mL of N-Acetylcysteine. After IV

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27 ¹ Lumpectomy is a surgical operation in which a lump is removed from the breast,
28 typically when cancer is present, but has not spread.

1 therapy was initiated on patient R.K., respondent failed to properly monitor the fluid input and
2 output of patient R.K. Respondent also failed to examine any signs or symptoms of fluid
3 overload in patient R.K., such as swelling in the legs, crackles in the lungs,² and shortness of
4 breath. In addition, respondent failed to monitor patient R.K.'s weight on a weekly basis, in order
5 to ensure that she was not gaining weight from too much fluid.

6 19. On or about September 3, 2012, respondent again ordered and/or directed and/or
7 approved administration of a full body medical diagnostic ultrasound and thermography on
8 patient R.K. Based on the results of the September 3, 2012, full body medical diagnostic
9 ultrasound and thermography, respondent made the following recommendations, among others:

- 10 a) Breast Ultrasound;
- 11 b) Proper hydration and exercise; and
- 12 c) Consultation with a qualified health care professional on environmental, lifestyle,
13 and nutritional practices to support breast health and consideration of preventative
14 treatment.

15 20. On or about September 3, 2012, respondent ordered and/or directed and/or approved
16 administration of right lower extremity arterial ultrasound and right breast ultrasound on patient
17 R.K.

18 21. On or about September 10, 2012, respondent again ordered and/or directed and/or
19 approved administration of a full body medical diagnostic ultrasound and thermography on
20 patient R.K. Based on the results of the September 10, 2012, full body medical diagnostic
21 ultrasound and thermography, respondent made the following recommendations, among others:

- 22 a) Breast Ultrasound;
- 23 b) Proper hydration and exercise; and
- 24 c) Consultation with a qualified health care professional on environmental, lifestyle,
25 and nutritional practices to support breast health and consideration of preventative
26 treatment.

27 ² Crackles in the lungs are sounds emitted during a lung exam, indicating fluid in the
28 lungs.

1 22. On or about September 10, 2012, respondent ordered and/or directed and/or approved
2 administration of right breast ultrasound, right lower extremity arterial ultrasound, abdominal and
3 pelvic ultrasound, and thyroid ultrasound on patient R.K.

4 23. Respondent committed gross negligence in the care and treatment of patients R.K.,
5 which included, but was not limited to, the following:

6 (a) Respondent failed to obtain a thorough history or conduct a complete physical
7 examination, before initiating treatment on patient R.K.

8 (b) . During treatment of patient R.K., respondent failed to obtain a history or
9 conduct physical examinations, periodically.

10 **Patient M.K.**

11 24. Prior to receiving medical care at pH Miracle Center, patient M.K. had a history of
12 bladder cancer and kidney cancer with metastases to the spine, liver, and lungs. She has had
13 multiple surgeries, radiation treatments, and multiple small bowel obstructions due to adhesions.

14 25. On or about July 15, 2012, patient M.K. began receiving medical care at pH Miracle
15 Center. Respondent failed to conduct a obtain history or conduct a complete physical
16 examination, before initiating treatment on patient M.K.

17 26. During treatment of patient M.K., respondent failed to obtain a history or conduct
18 physical examinations, periodically.

19 27. On or about July 16, 2012, respondent ordered and/or directed and/or approved
20 administration of a full body medical diagnostic ultrasound and thermography.

21 28. Based on the results of the July 16, 2012, full body medical diagnostic ultrasound and
22 thermography, respondent made the following recommendations, among others:

23 a) Breast Ultrasound;

24 b) Abdominal and Pelvic Ultrasound;

25 c) Colon, gallbladder, and liver cleanses;

26 d) Proper hydration and exercise; and

27 e) Consultation with a qualified health care professional on environmental, lifestyle,
28 and nutritional practices to support breast health and consideration of preventative

1 treatment.

2 29. On or about July 16, 2012, respondent ordered and/or directed and/or approved
3 administration of bilateral lower extremity venous ultrasound, thyroid ultrasound, carotid
4 ultrasound, bilateral breast ultrasound, bladder ultrasound, abdominal ultrasound, and bilateral
5 lower extremity arterial ultrasound on patient M.K.

6 30. On or about July 23, 2012, respondent again ordered and/or directed and/or approved
7 administration of a full body medical diagnostic ultrasound and thermography on patient M.K.
8 Based on the results of July 23, 2012, full body medical diagnostic ultrasound and thermography,
9 respondent made the following recommendations, among others:

10 a) Proper hydration and exercise; and

11 b) Consultation with a qualified health care professional on environmental, lifestyle,
12 and nutritional practices to support breast health and consideration of preventative
13 treatment.

14 31. On or about July 23, 2012, respondent ordered and/or directed and/or approved
15 administration of Intravenous therapy (IV therapy) on patient M.K. Respondent prescribed 500
16 mL of 0.45% saline, 75 mL of Sodium Bicarbonate, 10 mL of Magnesium Chloride, and insulin,
17 once a week.

18 32. On or about Jul 23, 2012, after IV therapy was initiated on patient M.K., respondent
19 failed to properly monitor the fluid input and output of patient M.K. Respondent also failed to
20 examine any signs or symptoms of fluid overload in patient M.K., such as swelling in the legs,
21 crackles in the lungs, and shortness of breath. In addition, respondent failed to monitor patient
22 M.K.'s weight on a weekly basis, in order to ensure that she was not gaining weight from too
23 much fluid.

24 33. On or about July 23, 2012, respondent also prescribed chemotherapy drugs.
25 Specifically, respondent prescribed to patient M.K., 2 mL of Cisplatin and 2 mL of
26 Cyclophosphamide, once a week. Thereafter, respondent failed to monitor patient M.K. for a
27 possible hemorrhagic cystitis (blood in the urine), a possible complication from
28 Cyclophosphamide; respondent failed to ask patient M.K. about possible side effects from

1 Cisplatin and Cyclophosphamide; and respondent failed to conduct adequate and regular
2 monitoring to check patient M.K.'s kidney function. Respondent has inadequate training in
3 Oncology.

4 34. On or about July 30, 2012, respondent again ordered and/or directed and/or approved
5 administration of a full body medical diagnostic ultrasound and thermography on patient M.K.
6 Based on the results of the July 30, 2012, full body medical diagnostic ultrasound and
7 thermography, respondent made the following recommendations, among others:

8 a) Proper hydration and exercise; and

9 b) Consultation with a qualified health care professional on environmental, lifestyle,
10 and nutritional practices to support breast health and consideration of preventative
11 treatment.

12 35. On or about August 6, 2012, respondent again ordered and/or directed and/or
13 approved administration of a full body medical diagnostic ultrasound and thermography on
14 patient M.K. Based on the results of the August 6, 2012, full body medical diagnostic ultrasound
15 and thermography, respondent made the following recommendations, among others:

16 a) Proper hydration and exercise; and

17 b) Consultation with a qualified health care professional on environmental, lifestyle,
18 and nutritional practices to support breast health and consideration of preventative
19 treatment.

20 36. On or about August 6, 2012, respondent ordered and/or directed and/or approved
21 administration of Intravenous therapy (IV therapy) on patient M.K. Respondent added 4 mL of
22 DMSO and 2 mL of Cesium. Thereafter, respondent failed to properly monitor the fluid input
23 and output of patient M.K. Respondent also failed to examine any signs or symptoms of fluid
24 overload in patient M.K., such as swelling in the legs, crackles in the lungs, and shortness of
25 breath. In addition, respondent failed to monitor patient M.K.'s weight on a weekly basis, in
26 order to ensure that she was not gaining weight from too much fluid.

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1 37. Respondent committed gross negligence in the care and treatment of patient M.K.,
2 which included, but was not limited to, the following:

3 (a) Respondent failed to obtain a thorough history or conduct a complete physical
4 examination, before initiating treatment on patient M.K.:

5 (b) During treatment of patient M.K., respondent failed to obtain a history or
6 conduct physical examinations, periodically; and

7 (c) Without proper monitoring of patient M.K. or adequate training in Oncology,
8 on or about July 23, 2012, respondent prescribed chemotherapy drugs, 2 mL of Cisplatin
9 and 2 mL of Cyclophosphamide, to patient M.K.

10 **Patient N.H.**

11 38. Prior to receiving medical care at pH Miracle Center, patient N.H. was diagnosed
12 with left breast cancer in November 2010. Patient N.H. underwent left breast mastectomy and
13 radiation therapy. The cancer recurred in April 2012 and was widely metastatic.

14 39. On or about July 30, 2012, patient N.H. began receiving medical care at pH Miracle
15 Center. Respondent failed to obtain a thorough history or conduct a complete physical exam,
16 before initiating treatment on patient N.H.

17 40. During treatment of patient N.H., respondent failed to obtain a history or conduct
18 physical examinations, periodically.

19 41. On or about July 30, 2012, respondent ordered and/or directed and/or approved
20 administration of a full body medical diagnostic ultrasound and thermography on patient N.H.
21 Based on the results of the July 30, 2012, full body medical diagnostic ultrasound and
22 thermography, respondent made the following recommendations, among others:

23 a) MRI;

24 b) Breast Ultrasound;

25 c) Abdominal and Pelvic Ultrasound;

26 d) Colon, gallbladder, and liver cleanses;

27 e) Proper hydration and exercise; and

28 f) Consultation with a qualified health care professional on environmental, lifestyle,

1 and nutritional practices to support breast health and consideration of preventative
2 treatment.

3 42. On or about August 27, 2012, respondent again ordered and/or directed and/or
4 approved administration of a full body medical diagnostic ultrasound and thermography on
5 patient N.H. Based on the results of the August 27, 2012, full body medical diagnostic ultrasound
6 and thermography, respondent made the following recommendations, among others:

7 a) MRI;

8 b) Breast Ultrasound;

9 c) Abdominal and Pelvic Ultrasound;

10 d) Colon, gallbladder, and liver cleanses;

11 e) Proper hydration and exercise; and

12 f) Consultation with a qualified health care professional on environmental, lifestyle,
13 and nutritional practices to support breast health and consideration of preventative
14 treatment.

15 43. Between on or about August 1, 2012 and on or about October 15, 2012, respondent
16 ordered and/or directed and/or approved administration of Intravenous therapy (IV therapy) on
17 patient N.H. Respondent prescribed to patient N.H., 500 mL of 0.45% normal saline, 100 mL of
18 sodium bicarbonate, 10 mL of Magnesium Chloride, N-Acetylcysteine, Glutathione,
19 Phosphatidylcholine, and insulin. After IV therapy was initiated on patient N.H., respondent
20 failed to properly monitor the fluid input and output of patient N.H. Respondent also failed to
21 examine any signs or symptoms of fluid overload in patient N.H., such as swelling in the legs,
22 crackles in the lungs, and shortness of breath. In addition, respondent failed to monitor patient
23 N.H.'s weight on a weekly basis, in order to ensure that she was not gaining weight from too
24 much fluid.

25 44. On or about October 16, 2012, respondent also prescribed 1 mL of Cisplatin, a
26 chemotherapy drug. Thereafter, respondent failed to administer regular blood tests on patient
27 N.H. in order to monitor any abnormalities such as bone marrow suppression and kidney failure;
28 respondent failed to ask patient N.H. about possible side effects from Cisplatin. Respondent has

1 inadequate training in Oncology.

2 45. Respondent committed gross negligence in the care and treatment of patient N.H.,
3 which included, but was not limited to, the following:

4 (a) Respondent failed to obtain a thorough history or conduct a complete physical
5 examination, before initiating treatment on patient N.H.;

6 (b) During treatment of patient N.H., respondent failed to obtain a history or
7 conduct physical examinations, periodically; and

8 (c) Without proper monitoring of patient N.H. or adequate training in Oncology, on
9 or about October 16, 2012, respondent prescribed a chemotherapy drug, 1 mL of Cisplatin,
10 to patient N.H.

11 **Patient D.K.**

12 46. Prior to receiving medical care at pH Miracle Center, patient D.K. had a history of
13 left breast cancer. She had a left lumpectomy in August 2012.

14 47. On or about September 7, 2012, patient D.K. began receiving medical care at pH
15 Miracle Center. Respondent failed to obtain a thorough history or conduct a complete physical
16 exam, before initiating treatment on patient D.K.

17 48. During treatment of patient D.K., respondent failed to obtain a history or conduct
18 physical examinations, periodically.

19 49. On or about September 7, 2012, respondent ordered and/or directed and/or approved
20 administration of a full body medical diagnostic ultrasound and thermography on patient D.K.

21 Based on the results of the September 7, 2012, full body medical diagnostic ultrasound and
22 thermography, respondent made the following recommendations, among others:

23 a) Thyroid Ultrasound;

24 b) Breast Ultrasound;

25 c) Abdominal and Pelvic Ultrasound;

26 d) Colon, gallbladder, and liver cleanses;

27 e) Proper alkalinehydration and exercise; and

28 f) Consultation with a qualified health care professional on environmental, lifestyle,

1 and nutritional practices to support breast health and consideration of preventative
2 treatment.

3 50. On or about February 12, 2013, respondent ordered and/or directed and/or approved
4 administration of Intravenous therapy (IV therapy) on patient D.K. Respondent prescribed 500
5 mL of 0.45% normal saline, 150 mL of sodium bicarbonate, and 10 mL of Magnesium Chloride.
6 After IV therapy was initiated on patient D.K., respondent failed to properly monitor the fluid
7 input and output of patient D.K. Respondent also failed to examine any signs or symptoms of
8 fluid overload in patient D.K., such as swelling in the legs, crackles in the lungs, and shortness of
9 breath. In addition, respondent failed to monitor patient D.K.'s weight on a weekly basis, in order
10 to ensure that she was not gaining weight from too much fluid.

11 51. Respondent committed gross negligence in the care and treatment of patient D.K.,
12 which included, but was not limited to, the following:

- 13 (a) Respondent failed to obtain a thorough history or conduct a complete physical
14 examination, before initiating treatment on patient D.K.; and
15 (b) During treatment of patient D.K., respondent failed to obtain a history or
16 conduct physical examinations, periodically.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Repeated Negligent Acts)**

19 52. Respondent has further subjected his Osteopathic Physician's and Surgeon's
20 Certificate No. 20A11324 to disciplinary action under sections 2227 and 2234, as defined by
21 section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in the care
22 and treatment of patients R.K., M.K., N.H., and D.K., as more particularly alleged herein:

23 **Patient R.K.**

24 53. Paragraphs 13 through 23, above, are hereby incorporated by reference and realleged
25 as if fully set forth herein.

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1 54. Respondent committed repeated negligent acts in his care and treatment of patient
2 R.K. which included, but was not limited to, the following:

3 (a) Respondent failed to obtain a thorough history or conduct a complete physical
4 examination, before initiating treatment on patient R.K.;

5 (b) During treatment of patient R.K., respondent failed to obtain a history or
6 conduct physical examinations, periodically;

7 (c) Respondent ordered and/or directed and/or approved administration of one or
8 more unnecessary tests on patient R.K.; and

9 (d) Respondent failed to properly monitor patient R.K. while on IV therapy.

10 **Patient M.K.**

11 55. Paragraphs 24 through 37, above, are hereby incorporated by reference and realleged
12 as if fully set forth herein.

13 56. Respondent committed repeated negligent acts in his care and treatment of patient
14 R.K. which included, but was not limited to, the following:

15 (a) Respondent failed to obtain a thorough history or conduct a complete physical
16 examination, before initiating treatment on patient M.K.;

17 (b) During treatment of patient M.K., respondent failed to obtain a history or
18 conduct physical examinations, periodically;

19 (c) Respondent ordered and/or directed and/or approved administration of one or
20 more unnecessary tests on patient M.K.;

21 (d) Respondent failed to properly monitor patient M.K. while on IV therapy;

22 (e) Respondent prescribed chemotherapy drugs, 2 mL of Cisplatin and 2 ML of
23 Cyclophosphamide, to patient M.K., without proper monitoring of patient M.K. or adequate
24 training in Oncology.

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1 **Patient N.H.**

2 57. Paragraphs 38 through 45, above, are hereby incorporated by reference and realleged
3 as if fully set forth herein.

4 58. Respondent committed repeated negligent acts in his care and treatment of patient
5 N.H. which included, but was not limited to, the following:

6 (a) Respondent failed to obtain a thorough history or conduct a complete physical
7 examination, before initiating treatment on patient N.H.;

8 (b) During treatment of patient N.H, respondent failed to obtain a history or
9 conduct physical examinations, periodically;

10 (c) Respondent ordered and/or directed and/or approved administration of one or
11 more unnecessary tests on patient N.H.;

12 (d) Respondent failed to properly monitor patient N.H. while on IV therapy; and

13 (e) Respondent prescribed a chemotherapy drug, 1 mL of Cisplatin, to patient
14 N.H., without proper monitoring of patient N.H. or adequate training in Oncology.

15 **Patient D.K.**

16 59. Paragraphs 46 through 51, above, are hereby incorporated by reference and realleged
17 as if fully set forth herein.

18 60. Respondent committed repeated negligent acts in his care and treatment of patient
19 D.K. which included, but was not limited to, the following:

20 (a) Respondent failed to obtain a thorough history or conduct a complete physical
21 examination, before initiating treatment on patient D.K.;

22 (b) During treatment of patient D.K., respondent failed to obtain a history or
23 conduct physical examinations, periodically;

24 (c) Respondent ordered and/or directed and/or approved administration of one or
25 more unnecessary tests on patient D.K.; and

26 (d) Respondent failed to properly monitor patient D.K. while on IV therapy.

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1 THIRD CAUSE FOR DISCIPLINE

2 (General Unprofessional Conduct)

3 61. Respondent has further subjected his Osteopathic Physician's and Surgeon's
4 Certificate No. 20A11324 to disciplinary action under sections 2227 and 2234, as defined by
5 section 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical
6 code of the medical profession, or conduct which is unbecoming to a member in good standing of
7 the medical profession, and which demonstrates an unfitness to practice medicine, as more
8 particularly alleged, in paragraphs 11 through 60, above, which are hereby incorporated by
9 reference and realleged as if fully set forth herein.

10 PRAYER

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

- 13 1. Revoking or suspending Osteopathic Physician's and Surgeon's Certificate No.
14 20A11324, issued to respondent Bennie Stephen Johnson, D.O.;
- 15 2. Ordering respondent Bennie Stephen Johnson, D.O., if placed on probation, to pay
16 the Board the costs of probation monitoring;
- 17 3. Ordering respondent Bennie Stephen Johnson, D.O., to pay the Osteopathic Medical
18 Board of California the reasonable costs of the investigation and enforcement of this case,
19 pursuant to Business and Professions Code section 125.3; and
- 20 4. Taking such other and further action as deemed necessary and proper.

21
22 DATED: July 14, 2016



23 ANGELINA M. BURTON
24 Executive Director
25 Osteopathic Medical Board of California
26 Department of Consumer Affairs
27 State of California
28 Complainant

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

**In the Matter of the Accusation Against:
Bennie S. Johnson, D.O.
Case No: 00-2013-003759**

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1300 National Drive, Suite 150, Sacramento, CA 95834.

On July 14, 2016, I served the attached **Accusation, Statement to Respondent, Request for Discovery and Government Codes Sections 11507.5, 11507.6 and 11507.7** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Accusation, Statement to Respondent, Request for Discovery and Government Codes Sections 11507.5, 11507.6 and 11507.7** as enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Osteopathic Medical Board of California addressed as follows:

NAME AND ADDRESS

(certified and regular mail)

Bennie S. Johnson, D.O.
227 N El Camino Real, #204A.
Encinitas, CA 92024

Certified Mail No.
91 7199 9991 7034 8923 2978

91 7199 9991 7034 8923 2978

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 14, 2016 at Sacramento, California.

Steve Ly
Declarant


Signature

cc: Jason J. Ahn, Deputy Attorney General